TC98-016

KC/LH
TS/SW Comm Ctr BK

DOCKET NO. TC98-016

In the Matter of

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING UPDATING LINES

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
1/30 98	Received;
2/3 98	Docketed;
2/5 98	TC Fee Filing;
2/13 98	Order Finding Probable Cause and Notice Requiring Answer;
3/5 98	Answer to Complaint;
3/12 98	Order for and Notice of Hearing;
3/23 98	Motion to Preclude Staff from Participating in Hearing;
3/23 98	Motion to Quash;
3/23 98	Motion to take Judicial Notice;
3/23 98	Certificate of Service;
3/27 98	Consolidated Motion to Amend Answer and Cert. of Service;
3/27 98	U S West's Consolidated Amended Answer;
3/27 98	Subpoena for Steven Hegman;
3/27 98	Admission of Service for Steven Hegman;
3/31 98	Certificate of Service;
4/1 98	Staff's Response to Motion to Preclude Staff from Participating in Hearing;
4/1 98	Staff's Response to Motion to Quash;
4/1 98	Staff's Response to Motion to take Judicial Notice;
4/10 98	Transcript of Hearing held on 4/2/98;
4/27 98	U S West Post Hearing Brief;
4/27 98	U S West's Proposed Find of Fact and Con of Law;
4/27 98	Notice of Filing by U S West of Late Filed Exhibit;
4/27 98	Request for Confidential Treatment of Information;
4/28/98	Certificate of Service;

STATE PUBLISHING CO., PIERRE, SOUTH DAKOTA—SHEAD 97 SP14130

7/7/98	Staff's Response to U.S. West's Post Hearing Brief,
7/11/98	Affidavit of Russ Evans,
7/29/98	Find of Fact and Con of Law, Notice of Entry of Order,
7/29/98	Docket Closed

PLEASE TYPE OR PRINT CLEARLY

Date Received JAN 30 1998

TC98-016

RECEIVED

FEB 02 1998

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

COMPLAINT

Complainant(s): (The party filing the complaint)		Respondent(s): (The person or Company complained against)	
Name	Keith Glanzer	Contact Person	
Address	19466 417th Ave	Company	
City, State, Zip	Carpenter, SD 57322	Address	
Work Phone	605 352-7460	City, State, Zip	
Home Phone	605 352-7460	Work Phone	
Cellular Phone	605 350-1335	Cellular Phone	
Fax		Fax	

If the Complainant is represented by an attorney, please list the attorney's name, address, telephone number and fax number below:
If Complainant is not represented by an attorney, please leave blank:

The facts giving rise to my complaint:

We purchased a computer for home + business use in August of 1997. At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with US West. US West technicians checked our line + said it was fairly good considering our location. We also found out that a standard phone line does not have a guarantee data rate.

On Oct. 28th 1997 we ordered an ISDN line which the US West ~~sales~~ salesperson told us was available. After repeated ~~calls~~ calls US West told us on Jan 8th 1998 that no ISDN line could be provided to us.

I am a Pioneer Seed Salesperson + during this time Pioneer has the sales staff migrated to laptop PC's with on line communication with Pioneer. After receiving training + the lap top it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line.

At this point in time US West seems unwilling to upgrade the stick we serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in US West service area.

NOTE: Please attach additional pages, if necessary, to explain your situation. Also enclose copies of any bills or other documents which may pertain to your complaint.

RESOLUTION REQUEST

I ask that the Public Utilities Commission grant the following relief. (What do you think the Commission should do to solve this problem?)

I would ask the PUC that they would apply pressure to USWest to improve our phone lines so that we might have acceptable levels of data transmission.

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Signature must be witnessed by a notary public.

Ruth Glanz — 1-30-98

Complainant's Signature — **Date**

State of South Dakota)
:SS
County of Clark)

On this 30 day of January 1998, _____, before me personally came and appeared Ruth Glanz, known to me to be the individual described herein and who executed the foregoing instrument, and who duly acknowledged to me that he/she executed same for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Harold E. Soule
Signature of Notary Public

(SEAL)
My commission expires: Nov. 16 2004

South Dakota
Public Utilities Commission
State Capitol 500 E. Capitol
Pierre, SD 57501-5070
Phone: (605) 773-3705
Fax: (605) 773-3809

TELECOMMUNICATIONS SERVICE FILINGS

These are the telecommunications service filings that the Commission has received for the period of:

01/30/98 through 02/05/98

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.

DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
	REQUEST FOR CERTIFICATE OF AUTHORITY		
TC98-015	Application by FaciliCom International, L.L.C. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/CH) "Petitioner will initially provide (i) dedicated access service to telecommunications carriers and commercial customers, and (ii) prepaid card service to and from all points within the state of South Dakota to residential and business customers, and may, at sometime in the future, add resold direct dialed message and credit card service offerings to business and residential customers, or other service offerings consistent with its business interests and subscriber demand."	02/02/98	02/20/98
	FORMAL COMPLAINT FILED		
TC98-016	Keith Glanzer vs U S WEST Communications. "We purchased a computer for home and business use in August of 1997/ At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with U S WEST. U S WEST technicians checked our line and said it was fairly good considering our location. We also found out that a standard phone line does not have a guarantee data rate. On Oct. 28, 1997, we ordered an ISDN line which the U S WEST salesperson told us was available. After repeated calls U S WEST told us on Jan. 1, 1998, that no ISDN line could be provided to us. I am a Pioneer Seed Salesperson and during this time Pioneer has the sales staff migrated to laptop PCs with on line communication with Pioneer. After receiving training and the laptop it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line. At this point in time U S WEST seems unwilling to upgrade the Slick 40 serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in U S WEST service area. I would ask the PUC that they would apply pressure to U S WEST to improve our phone line so that we might have acceptable levels of data transmission." (Staff: SW/KC)	01/30/98	NA

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by: E-mailing it to Terry Norum at terryn@puc.state.sd.us; Faxing the address to the Commission at 605-773-3809

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING UPDATING LINES	)))))	**ORDER FINDING PROBABLE CAUSE AND NOTICE REQUIRING ANSWER TC98-016**

On January 30, 1998, the Public Utilities Commission (Commission) received a complaint filed by Keith Glanzer, Carpenter, South Dakota, against U S WEST Communications, Inc. (U S WEST). Mr. Glanzer stated, "We purchased a computer for home and business use in August of 1997. At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with U S WEST. U S WEST technicians checked our line and said it was fairly good considering our location. We also found out that a standard phone line does not have a guaranteed data rate. On Oct. 28, 1997, we ordered an ISDN line which the U S WEST salesperson told us was available. After repeated calls U S WEST told us on Jan. 1, 1998, that no ISDN line could be provided to us. I am a Pioneer Seed Salesperson and during this time Pioneer had the sales staff migrated to laptop PCs with on line communication with Pioneer. After receiving training and the laptop it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line. At this point in time U S WEST seems unwilling to upgrade the Slick 40 serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in U S WEST service area. I would ask the PUC that they would apply pressure to U S WEST to improve our phone line so that we might have acceptable levels of data transmission."

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 February 10, 1998, at a duly noticed ad hoc meeting, Mr. Glanzer presented his position to the Commission. U S WEST recommended that probable cause be found so that it could respond to the complaint in writing.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49-13-1, 49-13-4, 49-13-13, 49-13-14.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11 and ARSD 20:10:01:08.01 and 20:10:01:09. The Commission voted unanimously to find probable cause, 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 and that the complaint shall be forwarded to U S WEST and U S WEST shall file with the Commission its answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 13th day of February, 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 Melissa Kalbs

Date 2/13/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg

JAMES A. BURG, Chairman

Pam Nelson

PAM NELSON, Commissioner

Laska Schoenfelder

LASKA SCHOENFELDER, Commissioner

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
MAR 05 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION
FAX Received MAR 05 1998

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-008
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-009
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-010
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-011
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-012

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

ANSWER TO COMPLAINTS

U S WEST Communications, Inc. ("US WEST"), in answer to the Complaints above set forth, and in accordance with the Public Utilities Commission of the State of South Dakota ("Commission") Orders entered in each respective docket, all dated February 13, 1998, provides the following Answers to the Complaints:

1. This is a consolidated response to the seven complaints from the residents of Carpenter, South Dakota. The petitioner/complainants variously complain that they do not have access to the Internet, caller ID, a second line, and a dedicated line.

2. U S WEST provides local exchange service to the complainants. SDCL 49-31-1(5) defines "local exchange service" as, among other things, "the access and transmission of two-way switched voice communications." Under the current law, U S WEST has satisfied its responsibility to provide local exchange services to the complainants. The services requested by the complainants are not "local exchange services".

3. If U S WEST upgraded the system serving these seven complainants to satisfy the complaints, the up-front cost would be approximately $55,000, with no possibility to recover the investment from these customers. These customers generate approximately $1,400 (7x $16.55 per month x 12) per year in local service revenue. A further consideration is the uncertainty that these seven complainants would remain customers of U S WEST.

4. No company should be required to make the investment sought in this docket without a means of recovery. There are alternative satellite providers for internet service for the residents of Carpenter, and those alternatives will be improving rapidly in the future.

5. Some of the petitioners have also complained that the current telephone system failed during a power outage caused by severe weather, including an ice storm. The battery backup for this system is designed to last 4 to 6 hours. During the ice storm, U S WEST went to great effort to prevent service outages. U S WEST will continue to strive to prevent service outages, but extreme weather conditions can disable any system. Some of the petitioners have acknowledged that electric and water service also were disabled during the ice storm. Some of the outages may have been the result of the petitioners' telephone equipment not the U S WEST system. Some cordless telephones and some commercial telephone systems are dependent on electricity to operate and would fail even if U S WEST would upgrade its system.

WHEREFORE, U S WEST, having responded to the above Complaints, respectfully requests that the above Complaints against U S WEST be dismissed.

Dated this 5th day of March, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

Andrew D. Crain
U S WEST Communications, Inc.
1801 California, Suite 5100
Denver, Colorado 80202
Telephone: (303) 672-2926
Attorneys for U S WEST Communications, Inc.

CERTIFICATE OF SERVICE

I, Thomas J. Welk, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, and that a copy of the foregoing Answer to Complaints was filed via facsimile with the South Dakota Public Utilities Commission on the 5th day of March, 1998 at approximately 4:00 p.m., and an original and ten copies were sent by overnight delivery this 5th day of March, 1998, to the following:

Mr. William Bullard, Jr.
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

and a true and correct copy was deposited into the United States mail, postage prepaid, addressed to the following:

Willow Lake Farmers Elevator
Attn.: Doug Reggow, Gen. Manager
P.O. Box 227
Willow Lake, SD 57278

Galen Waldner
HCR Box 1
Carpenter, SD 57322

Dick Glanzer
HCR 1, Box 8
Carpenter, SD 57322

Regan Glanzer
41530 191st Street
Carpenter, SD 57322

Mike Madsen
HCR 1, Box 22
Carpenter, SD 57322

Claude Glanzer
41173 192nd Street
Carpenter, SD 57322

Keith Glanzer
19460 117th Street
Carpenter, SD 57322

Thomas J. Welk

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	))))))	**ORDER FOR AND NOTICE OF HEARING** **TC98-016**

On January 30, 1998, the Public Utilities Commission (Commission) received a complaint filed by Keith Glanzer, Carpenter, South Dakota, against U S WEST Communications, Inc. (U S WEST). Mr. Glanzer stated, "We purchased a computer for home and business use in August of 1997. At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with U S WEST. U S WEST technicians checked our line and said it was fairly good considering our location. We also found out that a standard phone line does not have a guaranteed data rate. On Oct. 28, 1997, we ordered an ISDN line which the U S WEST salesperson told us was available. After repeated calls U S WEST told us on Jan. 8, 1998, that no ISDN line could be provided to us. I am a Pioneer Seed Salesperson and during this time Pioneer had the sales staff migrated to laptop PCs with on line communication with Pioneer. After receiving training and the laptop it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line. At this point in time U S WEST seems unwilling to upgrade the Slick 40 serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in U S WEST service area. I would ask the PUC that they would apply pressure to U S WEST to improve our phone line so that we might have acceptable levels of data transmission."

On February 10, 1998, at its duly noticed ad hoc meeting, the Commission reviewed the complaint. The Commission voted unanimously to find probable cause and served the complaint on U S WEST. U S WEST filed its Answer to Complaints on March 5, 1998.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and 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 may rely upon any or all of these or other laws of this state in making its determination.

A hearing shall be held on April 2, 1998, beginning at 9:00 o'clock A.M., in Ballroom "C" at the Crossroads Hotel and Convention Center, Huron, South Dakota. All persons so testifying will be subject to cross-examination by the parties. The order of the proceeding will be in the following sequence: (1) Complainant; (2) U S WEST; and (3) Staff.

The issues at the hearing are whether U S WEST 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 U S WEST 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 issues of whether U S WEST 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 12 day of March, 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 Melanie Kaas

Date 3/13/98

(OFFICIAL SEAL)

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

WILLIAM BULLARD, JR.
Executive Director

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
MAR 23 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
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TC98-016

MOTION TO PRECLUDE STAFF FROM PARTICIPATING IN HEARING

U S WEST Communications, Inc. ("U S WEST") moves the Public Utilities Commission of the State of South Dakota ("the Commission") to enter an order precluding its Staff from filing prefiled testimony, examining or cross examining witnesses, or otherwise participating as a party in this docket on the grounds that Staff has previously admitted in docket TC97-192 entitled "In the Matter of U S WEST Communications, Inc. and Its Ability to Serve South Dakota Customers" that it is not a party.

Under the South Dakota Administrative Procedure Act, parties have a full panoply of rights. SDCL 1-26-18 provides:

> Opportunity shall be afforded all parties to respond and present evidence on issues of fact and arguments on issues of law or policy. A party to a contested case proceeding may appear in person or by counsel, or both, may be present during the giving of all evidence, may have reasonable opportunity to inspect all documentary evidence, may examine and cross-examine witnesses, may present evidence in support of his interest, and may have subpoenas issued to compel attendance of witnesses and production of evidence on his behalf

See also ARSD 20:10:01:02 ("Any party to a proceeding may appear before the commission and be heard either in person or by attorney. A corporation or association may be represented before the commission by any bona fide officer or employee.").

In the Staff's Resistance to Motion for Discovery and Request for Expedited Ruling and Motion to Quash and in argument before the Commission in docket TC97-192, Staff counsel emphatically denied that Staff was "a party . . . ." Motion to Take Judicial Notice, Exhibit 1 (Staff's Resistance to Motion for Discovery and Request for Expedited Ruling and Motion to Quash dated February 2, 1998) and Exhibit 2 (Transcript of Feb. 3, 1998 at 19, 23). Counsel's denial constitutes a judicial admission and is binding on Staff. In re Estate of Tallman, 562 N.W.2d 893, 896 (S.D. 1997). Accordingly, U S WEST requests that the Commission enter an order precluding Staff from filing prefiled testimony, examining or cross examining witnesses, or otherwise participating as a party in this docket.

Dated this 20th day of March, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

Andrew D. Crain
U S WEST Communications, Inc.
1801 California, Suite 5100
Denver, Colorado 80202
Telephone: (303) 672-2926

Attorneys for U S WEST Communications, Inc.

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF U S WEST COMMUNICATIONS, INC. AND ITS ABILITY TO SERVE SOUTH DAKOTA CUSTOMERS	RESISTANCE TO MOTION FOR DISCOVERY AND REQUEST FOR AN EXPEDITED RULING AND MOTION TO QUASH TC97-192

Comes now Camron Hoseck, attorney for the staff of the South Dakota Public Utilities Commission (Commission), and resists the motion of U S WEST Communications, Inc. (U S WEST) for certain discovery and to quash subpoenas for those staff members assigned to this docket upon the following grounds:

1. This is an Order to Show Cause proceeding in which U S WEST must come forward and prove its financial, technical and managerial ability as a telecommunications company and demonstrate why certain remedies should not be imposed upon it. It is not an investigation of the Commission or its staff.

2. Neither the staff of the Commission nor the Commission itself is a party to this proceeding. Discovery pursuant to ARSD 20:10:01:22.01 is to be done in the same manner as in the Circuit Courts of this state. Discovery of this nature is, under the Rules of Civil Procedure, available only to parties, see SDCL 15-6-26(a) et seq.

3. The Commission staff has no burden of proof in this matter and, subject to another pending motion, will file prefiled testimony as determined by the Commission.

4. The subpoenas duces tecum are defective in the following manner (numbers correspond to subpoena demands):

   1. Documents prepared by Commission staff and provided to staff counsel are protected by the attorney-client privilege.

   2. This request is overly broad and seeks information which U S WEST may already have as most of it originated with U S WEST.

   3. This request is overly broad, lacks specific descriptions of documents requested and constitutes a "fishing

EXHIBIT 1

expedition" by U S WEST. The Commission or its staff has no obligation to do U S WEST's research.

4. Documents prepared by or received by staff regarding communications with any Commissioners about this petition are outside the scope of discovery inasmuch as this is an investigation of U S WEST and not the Commission or its staff.

5. Staff job descriptions are not within the scope of discovery as this is an investigation of U S WEST and not the Commission or its staff.

5. The Commission, in granting this Order to Show Cause, was exercising its statutory authority to make certain inquiries into the ability of U S WEST to function as a telecommunications company in South Dakota. The Commission has no obligation to submit itself to discovery processes and in fact would be frustrating the performance of those statutory duties in doing so.

WHEREFORE, Commission staff respectfully moves the Commission to deny the motion for discovery and that the subpoenas duces tecum not be issued and that they be quashed.

Dated at Pierre, South Dakota, this 2nd day of February, 1998.

Camron Hoseck
Staff Counsel
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
Telephone (605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of the Resistance to Motion for Discovery and Request for an Expedited Ruling and Motion to Quash were served on the following by facsimile and by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 2nd day of February, 1998

William P. Heaston
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Thomas J. Welk
Tamara A. Wilka
Attorneys at Law
Boyce, Murphy, McDowell & Greenfield, L.L.P.
P. O. Box 5015
Sioux Falls, SD 57117-5015

Camron Hoseck
Staff Attorney

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF U S WEST COMMUNICATIONS, INC. AND ITS ABILITY TO SERVE SOUTH DAKOTA CUSTOMERS	TC97-192

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: February 3, 1998
11:00 A.M.
Room 430, Capitol Building
Pierre, South Dakota

PUC COMMISSION: Jim Burg, Chairman
Laska Schoenfelder, Commissioner
Pam Nelson, Commissioner

COMMISSION STAFF PRESENT:
Rolayne Ailts Wiest
Karen Cremer
Camron Hoseck
Harlan Best
Bob Knadle
Gregory A. Rislov
David Jacobson
Tammy Stangohr
Leni Hook
Shirleen Fugitt

Reported by: Lori J. Grode, RMR

EXHIBIT 2

A P P E A R A N C E S

For US West: Thomas J. Welk
P.O. Box 5015
Sioux Falls, South Dakota,
57117-5015

P R O C E E D I N G S

CHAIRMAN BURG: Next is the matter of U S West and the ability to serve South Dakota customers. The question being today shall the Commission grant staff's Motion to Amend the Order to Show Cause. So we'll let staff take up that issue first. Who's taking it? Camron?

MR. HOSECK: Mr. Chairman, members of the Commission: Staff has filed a Motion to Amend the Order to Show Cause, which the Commission issued in this matter. The first grounds for this motion is more of a clerical nature and that relates back to the prior relief that the staff asked for when the petitioners filed originally. And what basically it amounts to is there was a typographical error in the original petition, and it was transposed into the Order to Show Cause. And the effect of that was that it is somewhat misleading.

The intent of staff in pleading this matter was to make sure that U S West was aware of all possible remedies which might be assessed upon it. And

communications that have been had regarding the petition to see if we're going to get a fair hearing as a matter of fundamental due process. That's all we want is an opportunity to depose the staff. We didn't bring this petition. The staff brought the petition. We want to talk to the staff and in a professional manner about the concerns that are alleged and the issues that are there, and that's what we want to do. And we are entitled as a matter of fundamental due process to do it that. We will do it professionally, in a professional manner, and we will do it in order with your schedule. And that's what I would like the Commission do is issue those subpoenas. I can address the motion to quash, but I'm assuming that is a cross motion so I'll stay with my motion at this time.

CHAIRMAN BURG: Response?

MR. HOSECK: Yes. Mr. Chairman, members of the Commission, thank you. In response to U S West's Motion for Discovery here, I think it's very critical at the outset to point out that he's anticipated following the Rules of Civil Procedure, at least under the Commission's rule, and that process is restricted to parties, and there is no way that this Commission or its staff is a party to this action. And this is a position taken by U S West on numerous times in the

not. If they're not a party, they shouldn't be showing up presenting any evidence, shouldn't be cross-examining witnesses. That's what your own staff counsel said. He's not a party. You're not a party. Do we show up by ourselves, talk to ourselves? What is this bizarre nature of this proceeding?

CHAIRMAN BURG: Do you want to respond, Mr. Hoseck?

MR. HOSECK: And I'm not going to beat a dead horse here to death. But I think that the law in this matter is fairly cut and dried and that is that staff is not a party for purposes of any type of accountability in the matter that Mr. Welk urges here. We act on behalf of the public and the public interest. And the matters that Mr. Welk reads about out of 1-26-18 are rights that U S West certainly has, but they are rights that pertain to the hearing setting only. We're talking about a fishing expedition under the records of the agency, and we're not a party to this thing. It's an oppressive request.

CHAIRMAN BURG: Mr. Hoseck, are you saying that the law allows you to cross-examine even if you were not a party?

MR. HOSECK: Absolutely.

CHAIRMAN BURG: Okay. And that, Mr. Welk, I

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES)

I, Lori J. Grode, RMR, Notary Public, in and for the State of South Dakota, do hereby certify that the above hearing, pages 1 through 27, inclusive, was recorded stenographically by me and reduced to typewriting.

I FURTHER CERTIFY that the foregoing transcript of the said hearing is a true and correct transcript of the stenographic notes at the time and place specified hereinbefore.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Pierre, South Dakota, this 3rd day of February, 1998.

Lori J. Grode, RMR

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
MAR 23 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-008
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-009
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IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

MOTIONS TO QUASH

U S WEST Communications, Inc. ("U S WEST") moves the Public Utilities Commission ("the Commission") pursuant to ARSD 20:10:01:17.01 to quash Staff's First Data Request dated March 16, 1998 and Staff's Second Data Request dated March 17, 1998 on the grounds that Staff may not obtain discovery because it is not a party, Staff neither requested or obtained Commission approval to conduct discovery, and the request fails to comply with the South Dakota Rules of Civil Procedure.

(1) Only parties may seek discovery

Counsel for Staff admitted in docket TC97-192 entitled "In the Matter of U S WEST Communications, Inc. and Its Ability to Serve South Dakota Customers" that Staff is not a party. See Motion to Preclude Staff from Participating in Hearing at 2; Motion to Take Judicial Notice, Exhibits 1 and 2.

ARSD 20:10:01:22.01 provides that discovery is to be done "in the same manner as in the circuit courts of this state." Pursuant to the South Dakota Rules of Civil Procedure,

discovery is only available to parties. SDCL 15-6-26(a).[1] Because Staff is not a party, it is precluded from conducting discovery.

(2) Staff neither requested or obtained Commission approval

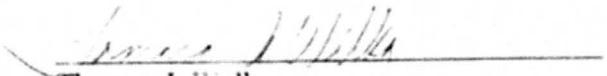
Even if the Commission were to determine that Staff is a party to these proceedings, ARSD 20:10:01:22:01 requires Commission approval before a party may conduct discovery. No such approval was requested or obtained.

(3) The requests fail to comply with the South Dakota Rules of Civil Procedure

ARSD 20:10:01:22:01 provides that discovery is to be done "in the same manner as in the circuit courts of this state." Pursuant to SDCL 15-6-34(b), parties have thirty days to provide written responses to discovery requests. In this case, the requests provide nine and ten days respectively.

For all of the reasons stated above, U S WEST requests that the Commission grant its Motion to Quash.

Dated this 20th day of March, 1998.



Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

---

[1] SDCL 15-6-26(a) provides:
Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise under § 15-6-26(c), the frequency of use of these methods is not limited.

Andrew D. Crain
U S WEST Communications, Inc.
1801 California, Suite 5100
Denver, Colorado 80202
Telephone: (303) 672-2926

Attorneys for U S WEST Communications, Inc.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
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TC98-016

MOTION TO TAKE JUDICIAL NOTICE

U S WEST Communications, Inc. ("U S WEST") moves the Public Utilities Commission of the State of South Dakota ("the Commission") pursuant to SDCL 1-26-19(3) to take judicial notice of the following pleadings and transcripts in docket TC97-192 entitled "In the Matter of U S WEST Communications, Inc. and Its Ability to Serve South Dakota Customers", copies of which are attached:

1. Staff's Resistance to Motion for Discovery and Request for Expedited Ruling and Motion to Quash dated February 2, 1998 (Exhibit 1); and

2. Portions of the Transcript of the Commission's February 3, 1998 meeting (Exhibit 2).

Dated this 20th day of March, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL & GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

Andrew D. Crain
U S WEST Communications, Inc.
1801 California, Suite 5100
Denver, Colorado 80202
Telephone: (303) 672-2926
Attorneys for U S WEST Communications, Inc.

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TC98-016

CERTIFICATE OF SERVICE

I, Tamara A. Wilka, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, and on the 20th day of March, 1998 true and correct copies of U S West's Motion to Preclude Staff from Participating in Hearing, Motions to Quash, and Motion to Take Judicial Notice were sent by U S mail, postage prepaid,

Willow Lake Farmers Elevator
Attn.: Doug Reggow, Gen. Manager
P.O. Box 227
Willow Lake, SD 57278

Galen Waldner
HCR Box 1
Carpenter, SD 57322

Dick Glanzer
HCR 1, Box 8
Carpenter, SD 57322

Regan Glanzer
41530 191st Street
Carpenter, SD 57322

Mike Madsen
HCR 1, Box 22
Carpenter, SD 57322

Claude Glanzer
41173 192nd Street
Carpenter, SD 57322

Keith Glanzer
19460 117th Street
Carpenter, SD 57322

Karen Cremer
SD Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Tamara A. Wilka

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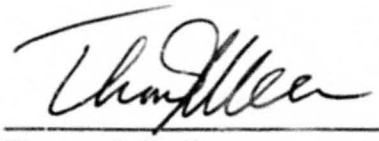
TC98-016

CONSOLIDATED MOTION TO AMEND ANSWER
and
CERTIFICATE OF SERVICE

U S WEST Communications, Inc. ("U S WEST") moves, pursuant to ARSD 20:10:01:16, for leave to file the attached U S WEST Communications, Inc's Consolidated Amended Answer in all of the above proceedings to revise paragraph 3 because final engineering has been completed for the approximate cost of upgrading the system serving these seven complainants and engineering has determined that a new repeater system is required, and to revise paragraph 4 as to the statement about alternative satellite internet providers.

Dated this 26th day of March, 1998.



Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

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and
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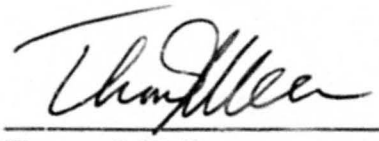

Thomas J. Welk
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GREENFIELD, L.L.P.
P.O. Box 5015
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(605)336-2424

CERTIFICATE OF SERVICE

I, Thomas J. Welk, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, and on the 26th day of March, 1998, true and correct copies of the Consolidated Motion to Amend Answer and U S West Communications, Inc.'s Amended Answer were sent to the following via U S mail, postage paid thereon:

Willow Lake Farmers Elevator
Attn.: Doug Reggow, Gen. Manager
P.O. Box 227
Willow Lake, SD 57278

Galen Waldner
HCR Box 1
Carpenter, SD 57322

Dick Glanzer
HCR 1, Box 8
Carpenter, SD 57322

Regan Glanzer
41530 191st Street
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41173 192nd Street
Carpenter, SD 57322

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19460 117th Street
Carpenter, SD 57322

Thomas J. Welk

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TC98-016

U S WEST COMMUNICATIONS, INC'S CONSOLIDATED AMENDED ANSWER

U S WEST Communications, Inc. ("US WEST"), in answer to the Complaints above set forth, and in accordance with the Public Utilities Commission of the State of South Dakota ("Commission") Orders entered in each respective docket, all dated February 13, 1998, provides the following Answers to the Complaints:

1. This is a consolidated response to the seven complaints from the residents of Carpenter, South Dakota The petitioner/complainants variously complain that they do not have access to the Internet, caller ID, a second line, and a dedicated line.

2. U S WEST provides local exchange service to the complainants. SDCL 49-31-1(5) defines "local exchange service" as, among other things, "the access and transmission of two-way switched voice communications." Under the current law, U S WEST has satisfied its responsibility to provide local exchange services to the complainants. The services requested by the complainants are not "local exchange services".

3. If U S WEST upgraded the system serving these seven complainants to satisfy the complaints, the cost would be approximately $211,500, with no possibility to recover the investment from these customers. These customers generate approximately $1,400 (7x $16.55 per month x 12) per year in local service revenue. A further consideration is the uncertainty that these seven complainants would remain customers of U S WEST.

4. No company should be required to make the investment sought in this docket without a means of recovery. There are alternative satellite providers for internet service and such technology should be available in the future to the residents of Carpenter.

5. Some of the petitioners have also complained that the current telephone system failed during a power outage caused by severe weather, including an ice storm. The battery backup for this system is designed to last 4 to 6 hours. During the ice storm, U S WEST went to great effort to prevent service outages. U S WEST will continue to strive to prevent service outages, but extreme weather conditions can disable any system. Some of the petitioners have acknowledged that electric and water service also were disabled during the ice storm. Some of the outages may have been the result of the petitioners' telephone equipment not the U S WEST system. Some cordless telephones and some commercial telephone systems are dependent on electricity to operate and would fail even if U S WEST would upgrade its system.

WHEREFORE, U S WEST, having responded to the above Complaints, respectfully requests that the above Complaints against U S WEST be dismissed.

Dated this 26th day of March, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
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1801 California, Suite 5100
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Telephone: (303) 672-2926
Attorneys for U S WEST Communications, Inc.

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TC98-016

SUBPOENA

TO: STEVEN WEGMAN
South Dakota Public Utilities Commission
500 E. Capitol
Pierre, SD 57501

You are hereby commanded to appear at Ballroom C in the Crossroads Hotel Convention Center, Huron, SD, on April 2, 1998, at 9:00 a.m., then and there to give testimony as a witness on the part of the U S West Communications, Inc. in said matter pending before said Commission between the above-named parties and bring with you any and all notes regarding these dockets.

Dated this 31st day of March, 1998.

William Bullard, Jr., Executive Director
Public Utilities Commission of the State of South Dakota

(SEAL)

RECEIVED

MAR 27 1998

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-008
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-009
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-010
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-011
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-012

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

ADMISSION OF SERVICE OF STEVE WEGMAN

STEVE WEGMAN, one of the witnesses in the above-entitled matter, hereby admits service of a true and correct copy of a Subpoena in this matter together with the witness fee as required by law.

Dated this _____ day of March, 1998.

_____

Steve Wegman



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

March 31, 1998

Dear Mr. Hoseck:

Please submit to the Commission any staff data requests directed to U S WEST Communication's Inc. in Docket TC97-178. Also provide any responses to the data requests.

Sincerely,

Rolayne Ailts Wiest

ROLAYNE AILTS WIEST
General Counsel

cc Thomas Welk
Tamara Wilka
Andrew Crain

Capitol Office
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FAX (605)773-3809

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Jim Burg
Chairman
Pam Nelson
Vice-Chairman
Laska Schoenfelder
Commissioner

William Bullard Jr
Executive Director

Edward R. Anderson
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Bob Knadle
Delaine Kolbo
Jeffrey P. Lorensen
Terry Nerum
Gregory A. Rislov
Tammi Stangohr
Steven M. Wegman
Rolayne Ailts Wiest



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

March 31, 1998

Ms. Rolayne Ailts Wiest
General Counsel
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Re: Carpenter Complaints
Docket Nos. TC98-007 through TC98-012 and TC98-016

Dear Ms. Wiest:

Enclosed please find copies of Staff's First Data Request dated March 16, 1998, and Staff's Second Data Request dated March 17, 1998, as requested in your letter of March 31, 1998.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk

cc: Mr. Andrew D. Crain
Mr. Thomas J. Welk and
Ms. Tamara A. Wilka

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Terry Norum
Gregory A. Rislov
Tammi Staigohr
Steven M. Weigman
Rolayne Ailts Wiest



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

March 31, 1998

Dear Ms. Cremer:

Please submit to the Commission a copy of Staff's First Data Request dated March 16, 1998, and Staff's Second Data Request dated March 17, 1998, as referenced in U S WEST Communication's Inc.'s Motion to Quash filed in Dockets TC98-007 to TC98-012 and TC98-016.

Sincerely,

Rolayne Ailts Wiest

ROLAYNE AILTS WIEST
General Counsel

cc Thomas Welk
Tamara Wilka
Andrew Crain

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Delaine Kolbo
Jeffrey P. Lorenzen
Terry Norum
Gregory A. Rislov
Tamara Stangohr
Steven M. Wegman
Rolayne Ailts Wiest

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	))))))	**CERTIFICATE OF SERVICE** **TC98-016**

I hereby certify that the Subpoena in the above entitled matter was served on Steven Wegman by handing the same to him on this the 31st day of March, 1998.

William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

April 1, 1998

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Re: Carpenter Complaints
Dockets TC98-007 through TC98-012 and TC98-016

Dear Mr. Bullard

Enclosed you will find Staff's Response to Motion to Preclude Staff from Participating in Hearing, Staff's Response to Motion to Quash and Staff's Response to Motion to take Judicial Notice in the above captioned matters for filing.

Very truly yours,

Karen E. Cremer

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.

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Steven M. Wegman
Rolayne Ailts Wiest



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

April 1, 1998

Mr. Andrew D. Crain
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Mr. Thomas J. Welk and
Ms. Tamara A. Wilka
Boyce, Murphy, McDowell & Greenfield
P. O. Box 5015
Sioux Falls, SD 57117-5015

Re: Carpenter Complaints
Dockets TC98-007 through TC98-012 and TC98-016

Dear Counsel:

Enclosed each of you will find copies of Staff's Response to Motion to Preclude Staff from Participating in Hearing, Staff's Response to Motion to Quash and Staff's Response to Motion to take Judicial Notice in the above captioned matters. This is intended as service upon you by mail.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC dk
Enc.

Capitol Office
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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	))))))	**STAFF'S RESPONSE TO MOTION TO PRECLUDE STAFF FROM PARTICIPATING IN HEARING TC98-016**

Comes now Karen E. Cremer, attorney for the staff of the Public Utilities Commission, and in response to U S WEST Communications, Inc.'s (U S WEST) Motion to Preclude Staff from Participating in Hearing states as follows:

1. The Commission Staff resists this motion on the grounds that Staff is not required to be a party in order to participate at the hearing. Historically, Staff's role is not that of "taking sides" with either of the parties to the action, but Staff's role is to represent the public interest. In order to properly perform its role, Staff needs to be able to examine and cross-examine witnesses, and to otherwise participate in proceedings in the name of the public interest. Staff asserts that it has a right to continue in this role and to assess the issues in a manner it best sees fit so that a recommendation can be made to assist the Commission in its decision making process. To exclude Staff would restrict the representation of the public and, in turn, the public interest in this action.

2. SDCL 49-13-4 mandates that the Commission conduct an inquiry into complaints. The Commission is also the fact finder in these cases as well as the decision maker. Obviously the legislature did not intend for those that sit as fact finder and decision maker to also conduct the inquiry, therefore Commission Staff must conduct the inquiry. It is ludicrous to suggest that the Commission Staff conduct an inquiry yet not be able to then present the results of such inquiry. Commission Staff should be allowed to participate in Commission hearings.

For the reasons set forth above, the Commission should deny U S WEST's Motion to Preclude Staff from Participating in Hearing.

Dated this 1st day of April, 1998.

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501
(605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Staff's Response to Motion to Preclude Staff from Participating in Hearing were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 1st day of April, 1998.

Keith Glanzer
19460 417th Avenue
Carpenter, SD 57322

Andrew D. Crain
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Thomas J. Welk and
Tamara A. Wilka
Attorneys at Law
Boyce, Murphy, McDowell & Greenfield, L.L.P.
P. O. Box 5015
Sioux Falls, SD 57117-5015

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	))))))	**STAFF'S RESPONSE TO MOTION TO QUASH** **TC98-016**

Comes now Karen E. Cremer, attorney for the staff of the Public Utilities Commission, and in response to U S WEST Communications, Inc.'s (U S WEST) Motion to Quash states as follows:

1. The Commission Staff resists this motion on the grounds that ARSD 20:10:01:17.01 as relied upon by U S WEST, and set forth below, is irrelevant to Staff's First Data Request and Staff's Second Data Request as Staff did not issue any subpoenas.

> 20:10:01:17.01. Commission action on subpoena request. The commission on its own motion, or in motion timely made, may quash a subpoena if it is unreasonable or oppressive, or the commission may require the party on whose behalf the subpoena is issued to pay in advance the reasonable cost of witness fees in accordance with SDCL 15-6-45(c) and of producing the records, books, papers, documents, or tangible things.

2. Staff further resists this motion as Staff is not required to be a party in order to obtain discovery. Historically, Staff's role is not that of "taking sides" with either of the parties to the action, but Staff's role is to represent the public interest. In order to properly perform its role, Staff is in need of information from both parties. While in the past Staff has gathered this information prior to a hearing so that it can be analyzed for a recommendation in order to assist the Commission in its decision making process, the same information can be gathered at the hearing.

3. Staff, or any party for that matter, is not required to obtain Commission approval prior to conducting discovery unless there is a problem at which point the matter

can then come before the Commission. The Commission at its discretion MAY then issue a discovery order. Once the Commission issues a discovery order, the taking of discovery shall be in the same manner as in the circuit courts of this state. See ARSD 20:10:01:22.01.

For the reasons set forth above, the Commission should deny U S WEST's Motion to Quash.

Dated this 1st day of April, 1998.

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501
(605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Staff's Response to Motion to Quash were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 1st day of April, 1998.

Keith Glanzer
19460 417th Avenue
Carpenter, SD 57322

Andrew D. Crain
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
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Thomas J. Welk and
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Attorneys at Law
Boyce, Murphy, McDowell & Greenfield, L.L.P.
P. O. Box 5015
Sioux Falls, SD 57117-5015

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	))))))	**STAFF'S RESPONSE TO MOTION TO TAKE JUDICIAL NOTICE** **TC98-016**

Comes now Karen E. Cremer, attorney for the staff of the Public Utilities Commission, and in response to U S WEST Communications, Inc.'s (U S WEST) Motion to take Judicial Notice states as follows:

The Commission Staff resists this motion on the grounds that the documents which U S WEST requests to have the Commission take judicial notice of are not "judicially cognizable facts" or "generally recognized technical or scientific facts within the agency's specialized knowledge" as required pursuant to SDCL 1-26-19(3). Therefore U S WEST's motion should be denied.

Dated this 15th day of April, 1998.

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501
(605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Staff's Response to Motion to take Judicial Notice were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 1st day of April, 1998.

Keith Glanzer
19460 417th Avenue
Carpenter, SD 57322

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Senior Attorney
U S WEST Communications, Inc.
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Sioux Falls, SD 57117-5015

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

RECEIVED
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-008
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IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-010
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-011

IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE) TC98-012

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE) TC98-016

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: April 2, 1998
1:15 P.M.
Ballroom B, Crossroads
Huron, South Dakota

PUC COMMISSION: Jim Burg, Chairman
Pam Nelson, Vice-Chairman
Laska Schoenfelder, Commissioner

COMMISSION STAFF PRESENT: Rolayne Ailts Wiest
Karen Cremer
Camron Hoseck
Harlan Best
Bob Knadle
Steve Wegman

Reported by: Lori J. Grode, RMR

APPEARANCES

For US West: Thomas J. Welk
P.O. Box 5015
Sioux Falls, South Dakota,
57117-5015

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EXHIBITS

1	Letter from AgriSource
2	Map
3	Late-filed cost study breakdown
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7	Petition
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PROCEEDINGS

MS. WIEST: Let's begin the hearing for the what we refer to as the Carpenter complaints. I believe there were some motions filed in these complaints also. And let's just take the -- there's a Motion to Amend the Answers also; is that correct?

MR. WELK: Yes, General Counsel.

MS. WIEST: Does staff have any objection to amending the Answers?

MS. CREMER: No, we don't.

MS. WIEST: Answers are amended. Motion to Quash. Does anybody have anything further to add on that motion?

MR. WELK: General counsel, I would ask that the arguments I made in support of the Motion to Quash in the Ben Hofer complaint be incorporated in the transcript in this docket. And I would urge the same reasons to support the Motion to Quash that I did in that.

"MOTION: Mr. Wegman provided some data requests, and I would say that they were somewhat confusing coming out of Carpenter and Hofer and there was some confusion. First one came; the second one came.

But the issue that we have is the procedural

issue, and that is one that we believe that the Commission needs to address about how one party seeks discovery from another. And the Motion to Quash seeks to say that the data requests that were sent by Mr. Wegman do not have to be answered by U S West for several reasons. First of all, as we've said in 97-192, that only a party can participate in discovery. And the staff has conceded in 97-192 that it's not a party. And we believe the law is clear under the Commission regulations, under the Administrative Procedures Act, that only a party can ask for discovery and then the Commission authorizes the party to seek discovery.

Our position is we don't have the ability to willy-nilly ask anybody anything without the approval of this Commission. And the staff has said it's not a party. And if it wanted the information, what it should be do is go to the Commission, ask for an order from the Commission. We would have a chance to respond to it. And then if the Commission orders it, then we will provide it.

And what I'm dealing with here is a procedural issue. I think the Commission needs to address this from a procedural standpoint how things ought to be handled for its business. Does the staff

need to come to you and then have you approve it and if -- that's what we think they should do. That's what we think we should do. And then you should approve it, because people may have objections that will come forth and that.

So this is a procedural issue on the Motion to Quash, that they didn't do the right things to seeking the authority to do it. In addition, the requests themselves, besides not seeking your approval, were not -- there wasn't enough time provided in that. The staff person, Mr. Wegman, just wrote down an artificial date. There are dates that are allowed under the applicable Rules of Civil Procedure, and he shortened that time which was allowed by law. So that is the Motion to Quash."

MS. WIEST: Do you have anything to add, Miss Cremer?

MS. CREMER: No. Staff would stand on its response that it filed.

MS. WIEST: Then on the Motion to Quash, I believe that motion is moot, just like it was in the Hofer complaint. Then we'll go to the Motion to Exclude Staff as a Party.

MR. WELK: U S West would similarly urge the same grounds for that motion that was made in the Ben

Hofer proceeding that was concluded this morning. I would ask also of the arguments that were made at that time along with the arguments contained in the written papers be included in this docket as well. I would stand on those arguments.

"MOTION: We also make a Motion to Preclude the Staff from Participating in this docket. That also was made in the Carpenter complaint. And, again, its genesis arises from the admission of the staff in 97-192 that they are not a party. Administrative Procedures Act SDCL 1-26-18 indicates the rights to a party, the right to cross-examine, to be present, to present evidence. Your rules, ARSD 20:10:01:02 talk about a party proceeding before the Commission. You have regulations that allow parties to seek discovery as well. And since they have admitted before you that they are not a party, they don't have the rights of a party."

MS. WIEST: And we'll take along with this one the motion for judicial notice.

MR. WELK: Similarly, the arguments that are made in support of the judicial notice, which would be in essence to have the Commission take notice of the proceedings that occurred in 97-192, which would support the Motion to Preclude Staff from Participating

in Hearing. I would similarly urge as I did this morning that those arguments and those grounds be included in this proceeding and that the transcript that incorporates those arguments be included in this record as well.

"MOTION: The next issue we have is the Motion to Take Judicial Notice. We filed that motion also. That asks the Commission to take judicial notice of its own proceedings, to take judicial notice of their request that the staff made -- or the admissions that staff made in 97-192 in their written papers and in statements made to the Commission before 97-192. And we would ask that all those motions be granted."

MS. WIEST: Do you have anything to add, Miss Cremer?

MS. CREMER: No. Staff would stand on the arguments it made previously.

MS. WIEST: With respect to the Motion to Exclude Staff, Commission makes the same ruling it made in the Hofer, that staff does have limited party status and its limit is it's unable to appeal Commission order. The motion is denied. The Motion for Judicial Notice is also denied. Are there any other motions?

MS. CREMER: Staff has none.

MS. WIEST: If not, let's begin. Do any of

their problem. We finally gave up the argument and transferred the data on disks.

Since that time our company has grown from five million dollars in sales to 25 million. A large part of that growth has come from the expanded trade area in and around Carpenter. With that kind of growth, we need to make our accounting system more efficient. We tried to solve the problems internally. We spent about $2,000 to double the user capacity of our network server to be sure that there would always be room for the connection. We spent $500 for new modems, and nothing seemed to make any difference. Then we were told that other companies had solved the problem with a dedicated leased phone line.

On March 13th, 1997, I contacted U S West to inquire about the possibility of getting a four-wire, two-way communication dedicated leased line between Carpenter and Willow Lake. She told me it wouldn't be a problem, as they had done it for many other companies. She said there would be a one-time hookup fee, a $450, and a monthly charge of $161.45. It would take approximately two weeks to set it up. I asked her to put it in writing so that I could get it approved.

March 31st I heard from ITC, which is the Willow Lake end of the phone company. They told me

they were ready to do their part of the work by the end of the week. I said we were still waiting to hear to get something in writing from U S West and that we should probably wait until we had it. April, I still hadn't heard from U S West. I called. They said they would get back to me. May 12th I finally called to inquire about the status again. They told me it had been referred to the U S West engineers. She told me she would talk to them and get back to me. She called me back to tell me that a leased line would cost $50,000 in extra construction because the lines in the Carpenter area were so obsolete. The cost for this would be billed to Willow Lake Farmers Elevator. I told her this would -- this was unacceptable.

So at the present time we are using a random dial-up method on a limited basis. For the past three months our Carpenter office has averaged less than two hours a day of live computer time on our main system at a cost of $317 per month. We really need much more than that, but it's simply cost prohibitive. The phone bills also indicate that it takes three, four, sometimes five times, five tries, to make this connection. The quality varies and the connection is sometimes broken.

It's difficult to estimate a cost of the time

spent waiting for the connection and trying to fix problems created by the broken connections. After several unsuccessful tries, our staff in Carpenter will call the main office and tell me their problems. We then shut down the whole system and reboot and they try it again. I don't feel it's a computer problem because we have a similar setup in another location in Willow Lake and we don't have these problems.

Our company has just made an $80,000 investment in a new computer system that we plan to have in place by July. That investment will give our company the ability to take advantage of such services as E-mail, Internet, plus an advanced accounting system. We will save over the years by not having to pay for current marketing services like DTN. We will have greater ability to communicate with our customers, grain dealers and agronomy companies. But Carpenter will still be left hanging. $80,000 spent and we still won't be able to use -- to fully use our computer system, our employees, or keep in contact with our customers and markets in that area.

Some of the other problems that we have been having with the phone lines is that data transfer is extremely slow. If we try to fax a one-page fax between Willow Lake and Carpenter, it can take up to

seven minutes, and this is at a long distance rate.

Another function of our company is to provide our customers with agronomy planning. We do soil testing, crop planning. We do this through a company called AgriSource, which is a division of Cenex/Land O'Lakes in St. Paul. It requires data transmission from St. Paul with soil testing results and information and things like that. We have the similar system setup in Willow Lake that gives us no problem whatsoever. But we can't seem to accomplish these same things in Carpenter. I have a letter here from AgriSource explaining their side of the situation, if I can read it.

This letter is sent to document the communications problems that we have been experiencing over the last several weeks.

We support AgriSource software at more than 600 accounts. We have the most difficulty in supporting your account due to slow data transmission speeds over the bad telephone lines in your area.

Our experience has been that we can reliably connect to your system at only 2,400 baud, on a good day. Most days we do well to connect at 1,200 baud. Today, February 24th, 1998, I was unable to reliably connect at any speed down to 800 baud.

The 2,400 baud maximum data rate specified by your telephone company is less than adequate for modern business telecommunications. This slow data rate -- these slow data rates are also difficult to establish with today's modems and communication software. To make such a connection requires us to revert to older software and to manually specify modem initialization to force modems to connect at low speed. The sophistication of such technological procedures are beyond the experience and capabilities of most office personnel.

My best recommendation is to strongly encourage your telephone company to improve the data transmission capabilities of your telephone system.

It's signed by Robert C. Grams, AgriSource Support, Cenex/Land O'Lakes, St. Paul.

I guess what we are requesting is the capability to have a quality dedicated leased line between we Willow Lake and Carpenter at a reasonable rate, the capability to add lines and to have quality lines capable of transmitting data quickly and efficiently.

MS. WIEST: Mr. Welk, do you have any questions?

MR. WELK: Just a few.

CROSS-EXAMINATION

BY MR. WELK:

Q. Would you like me to refer to you as Ms. Grann?

A. Mrs.

Q. Your complaint that you filed with the Commission, did you initiate that complaint yourself, your business?

A. Yes, my general manager did.

Q. And that was initiated by a written complaint that was filed in December of '98 -- excuse me.

A. December '97.

Q. Excuse me, '97. Is that when you filed it?

A. Yes.

Q. Wait a second, I've got a number of them here.

A. I think it was January of '98.

Q. And you called to the Commission, and then was there a written form that was sent out to you?

A. They instructed us how to file a formal complaint.

Q. Who was that that's instructed you?

A. The general manager spoke to, I believe, he spoke to Jim Burg or someone in the PUC office. The forms were sent out from the office.

Q. Did anyone come out from the PUC to visit with you?

A. After we made the initial call, I believe Steve came out to the Carpenter office to see what our complaint was.

Q. And did he bring a complaint form with him, or had you already filled it out and sent it in?

A. I'm not sure. I work in the Willow Lake office. Steve came to the Carpenter office. I wasn't there that day. I don't know if that's where they got the forms or not.

Q. Is there any relationship between the other complainants in here and the Willow Lake Elevator. Galen Waldner, Dick Glanzer, Regan Glanzer, Mike Madsen, Claude Glanzer, and Keith Glanzer? Is there any relationship there?

A. They're all members of the same community, same problems.

Q. But no family relationships?

A. No.

Q. Is there any relationship between those individuals and the elevator? Any family relationship? Financial interest?

A. No. They're customers of the business.

Q. All customers?

A. Mike Madsen is listed on there. He's an employee.

Q. Mike Madsen is an employee of the elevator?

A. Mike Madsen is an employee. Galen Waldner and Dick Glanzer are directors at the company.

Q. So Dick Glanzer is a director of the --

A. And Galen Waldner is a director.

Q. And Galen Waldner is a director. So we have the Willow Lake Elevator, we have two of its directors and one employee --

A. Correct.

Q. -- essentially making these complaints. Did you have any discussion with Mr. Wegman when he came out?

A. No, I did not.

Q. Have you had discussions with anybody about your complaint after you filled it out?

A. From the time it was filled out until it was filed, no, I did not.

Q. What about from the time of the filing until today?

A. Spoke to Steve and Karen yesterday.

Q. About what your testimony would be today?

A. Yes.

Q. And other than that, you've not had

conversations?

A. (Witness shook head negatively.)

Q. Have you reported any trouble on your lines regarding the voice quality of the lines that go to the elevator?

A. Report as to U S West when there are problems, you know?

Q. Yes.

A. Disrupted communication, things like that, general voice quality. I guess we've just put up with it.

Q. Well, but there's no -- your complaints, as I understand today and in listening to you, are all related to data transmission problems; is that correct?

A. Yes.

Q. And you're not complaining about voice quality. You're complaining about the data capabilities of the line you have; is that correct?

A. That's correct.

Q. And how long have you had telephone service with U S West at the Carpenter Elevator?

A. How long has U S West been out there?

Q. Yes.

A. The Carpenter business has been in business for approximately 45 years, so as long as there was

telephone service available there.

Q. What do you physically have? Let's talk about where Carpenter is relative to Huron so we get that in the record. Where is Carpenter located generally?

A. Eighteen miles north on 37 and 18 miles east on 28 and then a half mile north again.

Q. And in Carpenter that's the location for the elevator whose main office is in Willow Lake; correct?

A. Correct.

Q. And other than the -- and what kind of telephones do you have currently in the Willow Lake -- excuse me, in the Carpenter office, the Willow Lake Elevator?

A. The telephone that is there has its two phones in the main office and a phone down in the fertilizer plant.

Q. How many lines do you have coming in?

A. Two.

Q. So you have two lines and you have a fax machine?

A. Yes, we do.

Q. Now, there were, as I understand your complaint, discussions about various options that were available to solve your data transmission problems but

you thought the cost was prohibitive. Would that be a fair statement?

A. Yeah.

Q. So what were the options that were discussed with you about what was available but thought too prohibitive?

A. The only other option besides what we're using right now, which is random dial up, they explained a foreign exchange number, I believe they called it. There would be charges from both U S West and from ITC ends.

Q. And what were the charges that were quoted to you for that option?

A. ITC, the Willow Lake end, would charge $253 to set up and $155 per month. And U S West would charge 453 to install and $165 per month charges.

Q. So, roughly speaking, I'm just doing this quickly, it looks like about approximately 700 to install and about 320 a month. Is that roughly correct?

A. Right.

Q. And from a business standpoint, you believe for that service that's too prohibitive a cost?

A. We did, yeah, at that time because they originally had told me that we should be able to

establish this for half of that, at least it would be half that what I was originally quoted.

Q. But the option finally quoted to you is this, and you believe that's too cost prohibitive; correct?

A. Yeah, if it can be done less than that, yes.

Q. What is the current rate you pay for your lines into the elevator in Carpenter?

A. The base rate?

Q. Base rate.

A. Around 16 dollars a month. 15.40, I believe, something like that.

Q. So you pay two lines. You pay about 30 to 35 dollars in that range for two lines?

A. Yeah, I believe so. I'm not real sure. I may be wrong on that. That's what I pay at home. I guess I'm not sure what the business rate is.

Q. You indicated that you wanted more lines. How many more lines did you want, and what did you want to use them for?

A. In the business we would like at least one more. What we have right now, the fax machine and our credit card system are on the same line. It ties them up. We also use that line for outgoing calls. We just need one more for either for the fax or for the credit card.

Q. Have you asked to have an additional line put in?

A. We were told there were no more lines available.

Q. Who told you that?

A. U S West.

Q. Who at U S West told you that?

A. I don't have names.

Q. Do you know when you were told that?

A. I didn't make that call. Mike Madsen did.

Q. So you believe someone told Mike Madsen that you couldn't get another line?

A. (Witness nodded affirmatively.)

Q. Is that what your belief is?

A. Yes, yes.

MR. WELK: Nothing further.

MS. WIEST: Miss Cremer?

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. Crystal, as you were talking that the current line has failed to work in the past; is that right?

A. Yes.

Q. And is that on more than one occasion?

A. Yes.

Q. Do you have any ideas, is that daily or weekly?

A. No, I really don't. It's hard to estimate it. I can tell by the telephone bills. I can show you where when they try to connect. You know, they may try to connect at 5:02, 5:04, 5:06, where you repeatedly try to connect and then make on for a short time and then it kicks them out. That's evident on the phone bills.

Q. Okay. Now, if I understand you right, you said there is two lines and there's three phones and a fax; is that right?

A. (Witness nodded affirmatively.)

Q. Have you ever had a need to reach law enforcement from the Willow Lake Elevator in Carpenter?

A. Yes. Like I said, I don't work in the Carpenter office any more, but, yes, they have made calls. There was a car accident out at the corner. I know they have made those calls.

Q. Have they ever had any problems reaching law enforcement?

A. Not that I'm aware of.

Q. Okay. Where is your nearest law enforcement?

A. County sheriff? Clark.

Q. How far is that?

A. About 25 miles.

Q. What about fire protection?

A. Fire and ambulance are both out of Willow Lake, which is about 14 miles.

Q. And has there ever been an occasion where the elevator would need to call either fire or medical personnel?

A. One of our employees was hurt, and they called the ambulance out of Willow Lake.

Q. And do you guys -- do you do that through the 911 system, or how do you do that?

A. We call directly to Willow Lake. We pay for 911 services, but it goes through Huron and then it's routed around. It's faster to call directly to our emergency number.

Q. To your knowledge, have you ever not been able to contact either law enforcement or fire or medical due to a line that wasn't working?

A. Not to my knowledge.

Q. Okay. Am I correct in my notes that this is about five years this has been going on, approximately five years? Is that what you said?

A. The computer systems we've been trying to work with for about five years.

Q. Do you have problems with line noise?

A. The screeching, the static sounds that Mrs. Loewen was talking about this morning, that's common out there.

Q. Okay. And for how many years has that been going on?

A. From personal experience out there, I'd say five any way.

Q. If I say a weak signal, do you know what I mean by that?

A. Not really.

Q. A weak signal to me would be you have a hard time hearing the person on the other end. Is that a problem?

A. I'm not aware that it's a problem at the office. It is a problem in our home. We live at the very end of the phone line.

Q. So you live in the Carpenter area?

A. Yes.

Q. Or in the Carpenter exchange, or the Huron exchange?

A. Right.

Q. Does your phone, do you ever hear it ring and then quit?

A. Not that I'm aware of, not at home any way. I'm not sure about the office.

Q. And the office you're not sure. And you said -- has U S West ever been contacted about the noise problems, the --

A. Whenever it gets to the point you can't deal with it any more, then they're contacted.

Q. What's their response?

A. They come out, fix the problem.

Q. And does the problem recur though?

A. Yeah, it has, but they fix it. It's a temporary fix. It's the same. Weather is the most problem that we talked about this morning.

Q. When you were contacting U S West about the cost of this project, did they keep you posted on this?

A. No, they didn't. From my notes I had to initialize each call and keep on them to find out what was going on. Like I said, she told me originally that I spoke to Shirley a representative at 612 281-4808, and she told me, you know, we'd have it right away. And I had to keep calling back to find out what was going on.

Q. And you still don't have that?

A. I never did get anything in writing.

Q. Okay. You said the elevator has been in business approximately 45 years and you've had a phone -- they've had a phone in there probably about that

same amount of time. Do you know is the elevator current on their phone bill?

A. Yes, they are.

Q. Have they always been current as far as you know?

A. Yes.

Q. Do you have any more services offered to you at the elevator than you did ten years ago?

A. The only special --

Q. Features? Yeah, CLASS, Caller ID, do you have any of those services available?

A. No.

Q. Are you paying more now than you were ten years ago?

A. I'm sure we are.

Q. The relief that you've asked the Commission to order, which is you would like the ability to be able to add more lines and to have reliable lines and that this dedicated leased line be at a reasonable rate, if the Commission were to order that, would that accommodate your needs for economic development and your business, the businesses livelihood?

A. Yeah, I believe if the lines were -- you know, if we could transfer this data, solve this problem, I think it would help a lot.

Q. Do you think your business would grow if you had these capabilities?

A. Definitely. This crop planning working with the farmers is an area that's growing very fast. But it's very difficult for us to do it right now because we can't get the information from St. Paul.

Q. Did you want to put that letter in that you read? Do you want to put that in as evidence?

(EXHIBIT NO. 1 WAS MARKED FOR IDENTIFICATION.)

MS. WIEST: Is there any objection to this exhibit?

MR. WELK: No.

MS. WIEST: Exhibit one has been admitted.

Q. I just wanted to ask you, you talked about DTN. What's that?

A. It's a farm marketing program that we get the current prices from Chicago Board of Trade and then we can also use it to E-mail out to our customers so they have our current markets. It's a communication tool both ways.

Q. And you no longer have that though?

A. We still have it now. When we get on the Internet, it's our hope to save money by getting rid of it.

MS. CREMER: That's all I would have. I'm sorry, I would move the exhibit in. You asked if there was objections, and did it get moved in?

MS. WIEST: Yes, it's admitted. Commissioners, do you have any questions?

CHAIRMAN BURG: I have one. You feel that if you got additional phone line or upgraded line would you still need a dedicated line, or could you do the computer transmit over?

A. My understanding is that the dedicated line is the cheapest way. This dedicated line would allow us to have full-time access. The computer would be live full-time and it wouldn't cost us any more than the monthly rate.

CHAIRMAN BURG: Do you feel what they priced that at originally was reasonable?

A. Yeah, $165 a month, we could live with that compared to we're paying 317 right now for a very limited use.

COMMISSIONER SCHOENFELDER: But with the $165 a month, if I'm understanding this right, U S West is half of it because ITC is on the other side?

A. Originally it was told to me that U S West would make the charge. I was not told that ITC would make another charge. Where ITC got involved was when

they were talking about this foreign exchange number which would put a Willow Lake number out of Carpenter -- or Carpenter number to Willow Lake and then I was told there would be a charge to both ends. Originally I was never told that there was a charge from both sides.

COMMISSIONER SCHOENFELDER: But this is unique because you're dealing with two businesses in two different phone companies so yours is unique that way.

A. Right.

MS. WIEST: Any other questions from Commissioners?

MR. WELK: I have one.

RECROSS-EXAMINATION

BY MR. WELK:

Q. Is it your expectation as a business woman that U S West would put facilities in without reimbursement for cost?

A. I listened to testimony this morning that your engineers justified spending $180,000 to help three families. I don't see how you can not justify spending -- or originally it was said to be 50,000. Now you've updated that to 200,000. But to help a full community, which includes a 25 million dollar business.

Q. Then, yes, as a business person would you expect to put in special facilities for one customer and not be reimbursed?

A. If you can see the growth possibility there, maybe.

Q. And what is the growth possibility in Carpenter other than your business?

A. The added lines for all the people in there, the use of more facilities, more lines.

Q. Your one more added line?

A. And the elevator is not the only complaint here we're talking about. If you fix ours, you'll be fixing up the whole community.

Q. Are you aware of any other growth opportunities other than adding a second line to the rural subscribers and the extra line that you may want in your business?

MS. CREMER: I would object. She really is probably not Carpenter's economic development representative. I mean I don't know, and I could be wrong, but really she probably doesn't know.

MS. WIEST: If she doesn't know, she can say so, but she can speak from her knowledge of the town.

A. I don't know. I know that it would greatly help our company and the growth of our company.

Q. And what other businesses beside the elevator are in Carpenter?

A. There's an insurance company, there's --

Q. You mean a company or an agent?

A. Agent. There's seed businesses in the area, many of them that need the computer technology to stay in the business. Farmers are businesses in themselves. They need this technology probably more so than the people sitting in town do. They need the business, they need the technology to stay up on current and what's out there in the markets, products available, the changing every day. They need this technology.

Q. But do you have any idea? I'm just asking if you do.

A. The numbers?

Q. Yes, what the numbers are?

A. We sent a letter out asking people. We have at least 50 signatures on this form saying that they need these services.

Q. Do you have some?

A. I don't know exactly how many people, how many farms are included in this phone network.

Q. We'll get to hear that from the engineer.

MR. WELK: Thank you. That's all I have.

MS. WIEST: Any more questions of this witness? Thank you. (Witness excused.)

I believe we would go to the next complainant.

MS. CREMER: Well, there's actually someone else that wants to testify on Willow Lake.

BOB SYRING,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SYRING: My name is Bob Syring. I reside at Box 283, Willow Lake. The reason I'm here is I was hired by the Willow Lake Elevator as an independent consultant to search out and find a fully dedicated on-line real time state-of-the-art system for the elevator to convert to. I guess I maybe started out by the approach was that we looked at many different other software packages in the area, and the idea was to determine what was the best package for Willow Lake with certain requirements.

One of the things the specifications and the function that I had was to find a system that actually was real time, on line. Once we did find a package, and this package was -- the name of the company is Agris. That's when the first part of it began.

The issue with the communication lines, when we found that the lines weren't available between Willow Lake and Carpenter to be on line, real time. The request for the on line, real time line was due to the fact the competitive edges you would have as far as being in the marketplace with the other elevators in the area. Secondly, on line, real time was to manage the inventory control systems at both locations. They both have the same types of materials at the locations, and they need to be aware of what was at each location at any given time.

I guess other areas of concern from that was their real time capability to communicate back and forth to each other during physical inventories. If there was other concerns or issues, that this could be communicated without having to go back mode or through a non-dedicated line.

I think one of the questions was brought up at the time was who made the initial contact, and that was Doug Roggow, by the way, so your question was answered by Mr. Roggow. The other issue is that the Willow Lake facility and the Carpenter facility have a point sale. Point of sale is, as everybody is aware of what point of sale is. Point of sale is just selling products, different products, whether your entire shop,

or you're selling batteries, or that you have point of sale in there. And they had asked this system also be on line, real time. And by not having that capability, you lost the interface between the Willow Lake and the Carpenter facility.

One of the other things was asked for was Mr. Roggow had asked to have a key system available to him. And my understanding -- I'm a little vague on the key system. I'm not a telephone wizard. But the key system, my understanding is, that they have a certain number of lines that they can use for intercom system and telephone system between the two facilities.

One of the main reasons I think that they hired me is the people in Carpenter and Willow Lake are now in a very competitive marketplace. They need on line, real time data for the simple fact of pricing in the market, new technologies that are available. And by doing this without having Internet capabilities, which are currently is not available in Carpenter, they're at a competitive disadvantage. And so this was the main reason, or one of the main reasons for having the system be installed. I was trying to think of some of the other stuff.

One of the other areas of concern was that when the new system was installed, it had an interface

between the AgriSource system and Agris and AgriSource is the agronomic system that's out of Carpenter and Willow Lake right now and that had to have a complete interface to it.

Doug and I kind of pencilled out some rough numbers very quickly here. We talked about loss of income. We kind of assumed that if there was three outages, or three down times in Carpenter, that you considered about five minutes each, you would be down 15 minutes a day. And you start penciling that out, it's about 30, 40 dollars a day to be down. That's just the dollar value of the manpower that's on there. It's more the information and the noncompetitive edge that you would have by not having that data available to you consistently. All right? So it would be on line, real time.

I have a couple other issues but I think I'll bring them up at the end and that's concerning the educational side and others. That's all I have.

MS. CREMER: Just, Mr. Syring; right?

A. Right.

MS. CREMER: I was going to call him as a witness at the end to speak to a couple other issues, and it would just make more sense to wait until then.

MS. WIEST: Do you have any questions,

Mr. Welk?

CROSS-EXAMINATION

BY MR. WELK:

Q. Sir, what is the down time that you're referring to in your last statement?

A. Well, sometimes when you're on the Agri system and it goes down, you knock down all the lines. You therefore have to reboot and start up.

Q. Is this a data transmission issue?

A. Yes.

MR. WELK: Nothing.

MS. WIEST: Miss Cremer?

CROSS-EXAMINATION

BY MS. CREMER:

Q. When you were talking about this key system, and maybe I missed it, did you ever set up a key system? Did the elevator set up a key system?

A. No, they haven't, but that's something they would like to do.

Q. That's something they would like to do?

A. Right.

Q. And then you were talking about an interface. Did that ever work?

A. No, it has not.

Q. It has not worked.

MS. CREMER: That's all I would have.

MS. WIEST: Commissioners?

COMMISSIONER SCHOENFELDER: I was going to ask him about the nearest school, but evidently this is something you're going to talk about later. I'll leave it.

CHAIRMAN BURG: Were you familiar with the -- how long have you lived in Willow Lake?

A. About three years.

CHAIRMAN BURG: What kind of system does Willow Lake have as far as telephone?

A. They have ITC is currently our telephone system that we have.

CHAIRMAN BURG: But in comparison to what we're talking about, are all these services available in Willow Lake through ITC?

A. Yes. I have a consulting business and an income tax service there, and I'm on the Internet all the time.

CHAIRMAN BURG: Has that been available to you all the time you've been there all three years?

A. Yes, it has.

CHAIRMAN BURG: Okay.

MS. WIEST: Any other questions of this witness? If not, thank you. (Witness excused.) Are

there any other witnesses for TC98-007? If not, let's go to TC98-008. Galen Waldner.

GALEN WALDNER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MS. WIEST: Would you state your name and address?

MR. WALDNER: Galen Waldner. HCR, Box 1, Carpenter. I guess my first involvement with this was getting our family hooked up to the Internet probably in probably September of '97. We had purchased a computer earlier, and we were looking to try to get it hooked up. We had very poor luck trying to get our family going on the Internet. We tried a couple different companies: Santel and another one here in town, and it just never did work. There were a few times when I actually got some information back.

What normally would happen is I would key in through one of the drivers like Yahoo, or whichever one, and it would take -- it would say that the information was transferred there, but then it would say returning information, but yet rarely did anything ever pop up on the screen. And there's a little spot down there in the corner you can tell what the baud

is. I think that's what it is, bytes per -- any way, it was usually around 2,400 is what we -- is what the bytes of information coming in were. And I guess that was my first complaint was we couldn't even get the Internet hooked up. Mostly for the educational benefits for my children, it would just be in this modern age it's good to have those things.

The second problem with the Internet is the agricultural information. I've been to a few different places that have a lot of that. I could get on line, and it was just amazing to me the information that was out there regarding agriculture. And certainly for myself and all the other farmers in the area, that would be very beneficial.

Also, I am the person that was mentioned earlier that is an insurance agent that I run out of my home. And there is a lot of insurance information there as well. Also, being able to put E-mail in and out for both the farm and the insurance agency is important.

An area that I have never had problems with but in listening to some of the problems that the elevator has had transferring data, it won't be very long -- and in some companies they're doing it already -- there is a great deal of push in the industry to

put information over the phone lines instead of mailing things to each other and doing it that way. They're trying to go to a more paperless system. And I don't think they'll ever get to a totally paperless system, but that ability to move the information back and forth over the phone lines will be a real advantage to the insurance agents and the insurance business over a period of time.

Also, more and more of the suppliers are going to the Internet to move their ag products. And as that happens, it will be very beneficial for farmers to be able to go actually on line and put information back and forth, communicate with those people in the industry and use those systems.

MS. WIEST: Anything else?

MR. WALDNER: No.

MS. WIEST: Mr. Welk?

MR. WELK: Thank you.

CROSS-EXAMINATION

BY MR. WELK:

Q. Good afternoon, Mr. Waldner. Where do you live from the town of Carpenter?

A. Quarter mile north.

Q. Right on the oil road?

A. Yes.

Q. Nice big brown house I saw yesterday?

A. Yes.

Q. How many lines do you have coming into your home?

A. We have one coming into our home. If you notice, my parents live in the same yard. They also have a phone line to their house. And I just got a second line to my house, and I'm not sure exactly how it works, but the line is for now above ground, laying -- well, now it's laying under the snow, but between their house and our house because of the way the wires come in from the box. I have a second line.

Q. Is it a business line or is it both residential lines?

A. I originally put it in intending to use it because of the Internet. Since we can't get on the Internet, I didn't use it for that, so it's just kind of -- I'm not using it at all right now. I'm paying for it, but I'm not using it.

Q. What are you paying for your lines?

A. I don't even know what the rate is.

Q. Now, when did you contact the Commission to file a complaint?

A. I was at the Carpenter station one day and they were discussing it, and there were complaint forms

laying on the counter.

Q. And who was there at the Carpenter station at that time when they were discussing complaint forms?

A. Oh, I don't even remember who was there.

Q. Anybody from the Commission or Commission staff there, or was the complaint forms like there?

A. No, I imagine I talked to somebody about it. The complaint forms were laying there, and they showed me the form and said, you know, if you're having a problem, this is what you can do.

Q. So when you saw the form there at the gas station, you filled it out and send it in; is that right?

A. Yes.

Q. You hadn't complained before someone left the forms; is that correct?

A. I had called to the service number at U S West a time or two before that trying to get information. I talked to people. I know I talked to someone in either Sioux Falls or Des Moines, and I somehow got switched to somebody in Denver, and they switched me back somewhere else, trying to get a handle on why we couldn't get the Internet. And I really didn't get anything for an answer other than it should work.

Q. On your voice line have you -- you haven't had any problems with the voice line, the lines that have gone into your home, have you?

A. Nothing major.

Q. So your basic complaint, as I understand it, you want access to the Internet to run your computer and to also help with your business; is that correct?

A. Right.

MR. WELK: No thanks. I have nothing further.

MS. WIEST: Miss Cremer.

CROSS-EXAMINATION

BY MS. CREMER:

Q. Mr. Waldner, when you said nothing major with your phone lines, what --

A. Oh, occasionally you get a bad connection or something. And usually if I get a bad connection, we'll hang up and dial again and it's fine.

Q. What do you mean a bad connection? You can't hear, or that screeching noise they're talking about?

A. Oh, yeah, there's a lot of static or something on the lines and it isn't very audible.

Q. Do you have a hard time hearing people sometimes when they call you?

A. Not usually.

Q. Okay. But sometimes?

A. Occasionally, rarely, you know.

Q. Would you agree with me that you need voice grade quality for your home business, your insurance business, you need a voice, great quality phone line?

A. Yes.

Q. Have you ever -- where is the nearest law enforcement for you?

A. It would be Clark.

Q. Same thing?

A. Yeah.

Q. And as Crystal told us earlier, is the fire and medical out of Willow Lake?

A. Yes.

Q. Have you ever had any problems reaching any of those entities due to an outage or a bad phone line?

A. No.

Q. You mentioned the educational benefits. Where do your children go to school?

A. They go to school at Willow Lake.

Q. What sort of computer capabilities do they have at school there?

A. They just built a new building, and in that building is a computer lab where they can get on the Internet and really do all sorts of things from there.

Q. Are your children ever assigned homework or given a problem to do or something that involves using the Internet?

A. Well, not really because they know we can't get it out there so, you know.

Q. Are your children at a disadvantage then in Carpenter not having access to the Internet as compared to the other children at Willow Lake?

A. I would say so.

Q. In order for your children to use that computer, would you have to travel back to Willow Lake, or can they only use that during the day?

A. I guess I don't know if it's -- I would think it would be available in the evenings, too, but I don't know that whether it is or not.

Q. But it would be more convenient for you to have the Internet in your home?

A. Oh, definitely.

Q. And that was your purpose in getting the second line?

A. Yeah.

Q. Have you ever had any outages occur? Phone going out?

A. Oh, yes. I guess probably the last major one was during the blizzard or ice storm in the fall of,

would that have been '96?

Q. Right. And have you ever had outages that to your knowledge didn't occur because of the weather?

A. None that I can think of.

Q. Okay. How many years has this been going on with the line noise and the outages?

A. Well, I guess I have a little hard time, you know. I guess it's been something that I've put up with, but yet as far as a major distraction, it isn't. I can't answer you how many years, I guess.

Q. Has it been more than just when you filed your complaint in January, since January of '98? Has it been going on longer than that?

A. Well, I guess the only thing I was really complaining about was the Internet access.

Q. Okay. And you're willing to live with your voice grade service? I shouldn't say that. You believe that your voice grade service needs to be better than it currently is, though?

A. Yeah.

Q. Okay. How long have you lived in Carpenter?

A. Well, since '83. I grew up there, but I was aware for a few years.

Q. And have you had a phone in your home since 1983?

A. Yes.

Q. And have you paid your phone bill on a regular basis?

A. Yes.

Q. Now, you said earlier you weren't real sure what you paid for a phone service each month. Do you believe you're paying now more now than you did ten years ago?

A. That's pretty hard to say because I've increased my phone usage an awful lot just in the last few years. I don't know.

Q. Are you getting any more services than you were ten years ago?

A. No.

Q. And so what is it that you would like the Commission to order here?

A. I would just like to see our phone system be upgraded to handle the Internet and also the digital transfer of information that we're going to need.

Q. Okay. And the voice grade that you talked about before, the noise and that?

A. Yeah.

Q. If the Commission were to order that, would that accommodate your needs for both economic development and the educational benefits for your

children?

A. Yes.

MS. CREMER: That's all I'd have.

MS. WIEST: Commissioners, any questions? Any further questions?

MR. WELK: Yes, I do.

RECROSS-EXAMINATION

BY MR. WELK:

Q. I got kind of lost through this questioning. Have you ever reported a trouble on your line on voice grade to U S West?

A. No, I never reported any trouble.

Q. So you're just answering your questions. You would like to have it better, but you've never to the day of this hearing made one report on the voice grade quality of your phone, have you, sir?

A. No.

MR. WELK: I have nothing further.

MS. WIEST: Any more questions?

COMMISSIONER SCHOENFELDER: I'm going to ask him where do your children go to school?

A. Willow Lake.

COMMISSIONER SCHOENFELDER: Where is the James Valley School from your area?

A. Right now it's in Huron.

children?

A. Yes.

MS. CREMER: That's all I'd have.

MS. WIEST: Commissioners, any questions? Any further questions?

MR. WELK: Yes, I do.

RECROSS-EXAMINATION

BY MR. WELK:

Q. I got kind of lost through this questioning. Have you ever reported a trouble on your line on voice grade to U S West?

A. No, I never reported any trouble.

Q. So you're just answering your questions. You would like to have it better, but you've never to the day of this hearing made one report on the voice grade quality of your phone, have you, sir?

A. No.

MR. WELK: I have nothing further.

MS. WIEST: Any more questions?

COMMISSIONER SCHOENFELDER: I'm going to ask him where do your children go to school?

A. Willow Lake.

COMMISSIONER SCHOENFELDER: Where is the James Valley School from your area?

A. Right now it's in Huron.

COMMISSIONER SCHOENFELDER: They've moved it there?

A. Yeah.

COMMISSIONER SCHOENFELDER: But that facility was where then?

A. That facility was -- well, it's about what, 12, 14 miles out of here, so -- and we're 33 miles from Huron.

COMMISSIONER SCHOENFELDER: Thank you.

MS. WIEST: Any other questions of this witness? Okay. (Witness excused.) Are there any more witnesses for TC98-008?

MS. CREMER: No, I don't believe so.

MS. WIEST: Let's go to TC98-009. Dick Glanzer.

DICK GLANZER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MS. WIEST: Just state your name and address and explain your complaint.

MR. GLANZER: My name is Dick Glanzer. HCR 1, Box 8, Carpenter. Just to save time, I basically have the same complaint Mr. Waldner did. I attempted to get on the Internet and failed, and I have the same

COMMISSIONER SCHOENFELDER: They've moved it there?

A. Yeah.

COMMISSIONER SCHOENFELDER: But that facility was where then?

A. That facility was -- well, it's about what, 12, 14 miles out of here, so -- and we're 33 miles from Huron.

COMMISSIONER SCHOENFELDER: Thank you.

MS. WIEST: Any other questions of this witness? Okay. (Witness excused.) Are there any more witnesses for TC98-008?

MS. CREMER: No, I don't believe so.

MS. WIEST: Let's go to TC98-009. Dick Glanzer.

DICK GLANZER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MS. WIEST: Just state your name and address and explain your complaint.

MR. GLANZER: My name is Dick Glanzer. HCR 1, Box 8, Carpenter. Just to save time, I basically have the same complaint Mr. Waldner did. I attempted to get on the Internet and failed, and I have the same

problems.

MS. WIEST: Anything else?

MR. GLANZER: No.

MS. WIEST: Thank you. Mr. Welk?

MR. WELK: Yes.

CROSS-EXAMINATION

BY MR. WELK:

Q. Good afternoon, Mr. Glanzer. Can you tell the Commission where you live in relation to the town of Carpenter and probably give us a proximity to where Mr. Waldner is?

A. I'm a mile and a half north and a mile and three-quarters west of Carpenter.

Q. And do you have any business? How many telephone lines do you have coming to your place?

A. Lines? Just one line.

Q. And you use that -- do you run a business out of there?

A. I have a part-time mechanic shop business on the farm, yes.

Q. So that's your business and your residential phone? You use one phone?

A. Right, right.

Q. Now, you're on the board of directors of the elevator as well?

A. Yes, sir.

Q. And is there any family relationship between any of the complainants here with Waldners and Glanzers and Madsens you're aware of?

A. No, there isn't.

Q. That just happened to be several affiliated with the elevator?

A. Yeah, yeah, right.

Q. You don't farm in the area then?

A. Yes, I do. My mechanic is part-time.

Q. So you farm and have a part-time mechanic business?

A. Right.

Q. And have you ever made any complaints on your voice grade service on your line?

A. On the voice grade service, no, not that I can recall.

MR. WELK: Thank you.

MS. WIEST: Miss Cremer?

CROSS-EXAMINATION

BY MS. CREMER:

Q. Well, you think you may be getting off but you're not getting off that easy without telling us about your complaint. In your complaint that you list you tried to get on the Internet with two different

providers. Can you tell us about your experience with that?

A. We attempted to get on the Internet with Santel Internet last fall. After I would say at least a week or maybe longer, we gave up between the phone calls back and forth between Santel and us. It just wasn't going to work. The phone lines wouldn't handle it. We really wanted to get on the Internet, so we tried another company Basic Net here out of Huron. Called them, told them what our first problem was. And they said, "Oh, gee, we have no problem. We've never had any problem before. We'll get you connected." It was the same thing. We tried for several days, and it never did work.

We wound up loading up our computer, bringing it down here to Huron to the Basic Net office. They plugged it in, worked fine. They got on the Internet and went wherever they wanted to. Took it back home and hooked it back up and it didn't work. So their conclusion was you have to call the phone company. You got something wrong with your phone lines.

A service man came out after I had called and reported the problem. He checked the lines and his little box. He had said that according to U S West specifications, everything was up to grade. That U S

West would not guarantee a baud rate over 1,200 and that's probably why you're not getting connected. We also made a phone call to a gentleman that works on computers installing software and hardware and such. He came out, tried his best, and to no avail. We never did get connected, not once. Several attempts with both companies.

Q. Have you tried to get Caller ID?

A. No, I never tried it.

Q. Okay. Do you ever have any problems with power outages or your phone going out due to outages?

A. Yes. Our phone will go out when the power is off for an amount of time.

Q. And has it ever gone out other than when the phone -- other than when the electricity is off, that you know? I understand you don't sit on the phone all day and check to see if it's working or not.

A. I can't pinpoint a certain time or date when it has happened. I believe, yes, it probably has.

Q. But you don't know day or time, but it has happened in the past?

A. Briefly it has happened, yes.

Q. From where you live, does law enforcement come out of Clark County?

A. Right.

Q. And fire and medical would only come out of Willow Lake?

A. Right.

Q. Where do your children attend school?

A. Willow Lake.

Q. And do you know, have your children ever been assigned something on the Internet, a homework assignment, research, anything like that?

A. Not specifically assigned on the Internet, but I know they've made comments when they come home with school work, they sure wish they were on the Internet so they could have access to the information that's available on it from their experiences of using it in school.

Q. Do you, as a parent, do you feel your children are being disadvantaged?

A. Yes, I do.

Q. Okay. Does anyone in your family suffer from a medical condition that would require reliable phone service?

A. No.

Q. Would you agree with me that farming is one of the more dangerous occupations?

A. It's what they tell me, yes.

Q. And access to medical and fire protection is

critical?

A. Yes.

Q. Do you have problems with noise on the line?

A. Yes. Occasionally there is either static on the line, or sometimes you can be talking to someone and actually hear another conversation in the background, somebody else talking.

Q. And do you listen to that?

A. It's pretty hard, it's pretty faint.

Q. Do you have any problem -- does the other person ever complain that they can't hear you or you can't hear them very well?

A. Sometimes, yes.

Q. Do you have any problems with your phone ringing half a ring and then there either not being someone there or you know not to pick up because it's ringing and it's just not going to come through very well?

A. Sometimes the phone does ring once and it never rings again, I figured somebody had the wrong number and hung up. I don't know.

Q. Have you ever had problems with faxing?

A. Personally, no.

Q. That was when you included that in your complaint that had to do with the elevator?

A. On behalf of the elevator, yes.

Q. Have you ever contacted U S West about any of these problems?

A. Yes. When we tried to hook up on the Internet, I wound up calling U S West, and that's when they sent that service man out that day.

Q. But it didn't fix the problem?

A. No. Apparently there was no problem. The lines were as good as they were supposed to be according to him.

Q. According to the U S West tech?

A. Right.

Q. Okay. How long have you lived at your address in Carpenter?

A. My whole life I've been there.

Q. On that farm?

A. Yes.

Q. You've had a phone out there the whole time?

A. As long as I can remember.

Q. And you've continued to be current on your phone bill?

A. Yes.

Q. Do you have any more services now than you did ten years ago?

A. No.

Q. And are you paying more now than you were ten years ago?

A. I guess. I'm not sure. I would imagine the rates have probably increased in the last ten years.

Q. That's probably a fair assumption. What is the relief you would like the Commission to order here? What is it you want them to have U S West do?

A. Well, whatever it takes upgrading lines, their system, or whatever it involves, so basically I can have access to the Internet is my biggest concern right now.

Q. And if the Commission were to order that, which would -- if you got Internet, you understand that that would also -- if they were to upgrade that, that would clear up the line noise, the outages, all that sort of problem. Would that accommodate your family's needs in terms of convenience and necessity?

A. Yes.

MR. WELK: I'm going to object. Counsel, that's a misstatement of this witness's testimony. He hasn't said that.

MS. CREMER: What part?

MR. WELK: All of the outages that you keep talking about and the noise and all that. I'm just going to object. It's a misstatement of the record.

MS. WIEST: Overruled. I do have in my notes that he did talk about the noise.

Q. If the Commission were to order the relief that you want, would that accommodate your family's needs?

A. Yes, yes.

MS. CREMER: Thank you. That's all I have.

MS. WIEST: Commissioners?

CHAIRMAN BURG: I have one quick one. You indicate in your complaint that you've had power outages that you also lose your telephone. Have you ever checked as to why that occurs?

A. It's only just understanding that I've had hearsay. I'm not exactly sure why it happens, no.

CHAIRMAN BURG: In other words, how long is the power out before you lose telephone? Same time?

A. No, not exactly the same time. It takes time before it does go out. If the electricity just flickers for a just few minutes, no, we will keep our phone for I don't know how much time.

CHAIRMAN BURG: Have you had that happen actually?

A. That the phone has went dead because of the power going out?

CHAIRMAN BURG: Right.

A. Well, yes. When we had that big ice storm in October, a year ago last fall.

CHAIRMAN BURG: How long were you out of electricity at that time?

A. I think we were off at the farm for like six days.

CHAIRMAN BURG: Do you know how long you were out of telephone?

A. No. Because in the first days' time when we were without power, I know we lost our phone, and we took our cellular phone in the house and used it. We never bothered to check the phone on the wall to see if it did come back on later on in time or not. We had a cellular phone to use.

CHAIRMAN BURG: How did you charge that up? In your vehicle?

A. Yes.

CHAIRMAN BURG: Thank you. That's all I have.

CHAIRMAN BURG: Any more questions? Thank you. (Witness excused.) I believe we can go to the next complainant, TC98-010. Regan Glanzer.

REGAN GLANZER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. GLANZER: Regan Glanzer, 41530 191st Street. I guess my complaint is I stated I wanted the Caller ID because I'm the only one in the household that ever answered the phone. And if a machine doesn't work, the answering machine doesn't work, then I like to have the Caller ID for a backup. And I called to get it and they said, "Yeah, you can get it. It's available there." And they sent it out, and I hooked it up, and it wouldn't work. So I called back in and they said, "Well, it should work. You have it hooked up wrong." Well, I hooked it up every way possible and it still wouldn't work. And after talking to three or four people, they said it won't work there. I guess we'll put it away until the time comes when it will. I guess that's my biggest complaint, along with these other guys, what they said.

MS. WIEST: Anything further? Mr. Welk.

MR. WELK: Good afternoon.

CROSS-EXAMINATION

BY MR. WELK:

Q. Are you any relation to Dick?

A. Third cousin.

Q. Kind of like me and Lawrence Welk. Regan, where do you live in relation to the town of Carpenter?

A. One mile south and one quarter east.

Q. What kind of telephone lines do you have to your place?

A. Just one line coming in.

Q. Are you a farmer?

A. Yeah.

Q. And that's your principal business?

A. Yes.

Q. Do you know what you pay at a local rate?

A. Not right offhand I don't know.

Q. And have you ever had any problems with the voice grade quality service that you have?

A. Not to speak of. It will go out of order, a mouse trouble once, but when the electricity goes off, it will go out

Q. Did you ever make a trouble report to U S West?

A. I have. And there's been times when you talk to your neighbor in Carpenter, seen him in Carpenter, called in cell phone, they've already called it in.

Q. So how many times have you called U S West to report trouble on your quality service?

A. I don't know.

Q. Other than the indication you couldn't get Caller ID, do you have any recollection?

A. I have no idea for sure how many times I called that it was out of order.

Q. Once or twice in the last couple years?

A. Could be.

Q. And you called about the mouse. Anything else you called about?

A. No, not that I recall.

Q. Now, how did you come to file your complaint in this action with the Commission?

A. I got the complaint form in Carpenter, Cenex.

Q. It was laying in the gas station?

A. Yeah.

Q. Did you ever have any conversation with Mr. Wegman?

A. No.

Q. So it was just laying on the gas station and you filled it out and sent it in?

A. Yes. I talked to Mike Madsen about it, and he explained what it was to complain about the Caller ID because I mentioned I would like to have it.

Q. So you picked it up at the gas station, filled out and sent it in?

A. They did.

Q. Who did?

A. I'm not sure who took it out.

Q. Did you have any conversation about your Caller ID complaint?

A. Just to U S West.

MR. WELK: I have nothing further.

MS. WIEST: Miss Cremer?

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. Mr. Glanzer, has your phone line ever failed to work other than due to that power outage in the fall of '96?

A. There's been other times the electricity went off and the phone didn't work either.

Q. Has there been any other times when the electricity was working and your phone didn't work?

A. Didn't work?

Q. Did not work.

A. Yes.

Q. Do you have any idea why that would be?

A. No, I don't.

Q. Do you have noise on your line?

A. Not to speak of.

Q. Do you have static or double-talk?

A. Not that I can think of offhand.

Q. Do you ever have trouble hearing people on

the other line, or them complaining that they can't hear you?

A. At times.

Q. And where you live, where would you get law enforcement from?

A. Well, I'm in Beadle County, so I suppose Huron or Clark I could call. Fire from Willow Lake.

Q. And law enforcement, Beadle, fire from Willow Lake. What about ambulance?

A. Willow Lake or Huron.

Q. Have you ever had a need to call any of those entities?

A. Yes.

Q. Did you say you were a farmer also?

A. Yes.

Q. You would agree with Dick Glanzer that's one of the more dangerous professions?

A. Yes.

Q. Do you know how many years you've had problems with noise on the line? Is it something you just grew up with?

A. I've been on the farm for 36 years, so I mean there's been times the phone didn't work, and ever since growing up I can remember.

Q. Did you ever try -- you never tried to get

the Internet, did you?

A. No, I didn't.

Q. You said you've lived at that same place for 36 years. And you've had a phone in that place that whole time?

A. Yes.

Q. And are you current on your phone bill?

A. Yes.

Q. And have you been current?

A. Yes.

Q. Do you have any idea what you're paying for phone services right now?

A. Not really, no.

Q. Do you know is it more than you were paying ten years ago?

A. I would imagine.

Q. Are you getting any more services than you were ten years ago?

A. I do have that Star 69.

Q. Okay.

A. That's probably about it.

Q. That's about it? What is it you would like the Commission to order here?

A. Well, to update the lines. And I would like to get that Caller ID, I guess.

Q. Clear up the noise on the line?

A. Yes.

Q. And the outages?

A. Yes.

Q. If the Commission were to order that, would that accommodate your needs and satisfy -- accommodate you and your family's needs?

A. Yes.

MS. CREMER: Okay. Thank you.

MS. WIEST: Commissioners, any questions? Anything further for this witness?

MR. WELK: Yes.

RECROSS-EXAMINATION

BY MR. WELK:

Q. Sir, did you ever make any trouble report to U S West about any outage or about any noise problem or static?

A. Not that I recall. Like I say, when the phone goes out of order, I might have called it in.

Q. Anything that you had called in, did U S West fix it in a timely manner?

A. For the most part, yes.

MR. WELK: I have nothing further.

MS. WIEST: Thank you. (Witness excused.) We'll go to TC98-011. Mike Madsen.

MIKE MADSEN,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. MADSEN: My name is Mike Madsen. I reside at 18609 411th Avenue, in rural Carpenter.

MS. WIEST: Can you explain your complaint to the Commission.

MR. MADSEN: Well, I am also branch manager at the Carpenter branch, or the Willow Lake Farmers Elevator branch in Carpenter. And I guess with most of the stuff that we have talked about has been gone over already.

I guess as far as the phone lines in Carpenter, I deal with the phone lines on a daily basis out there. We do have a lot of voice problems with the phones. When we've had the repairmen come out over the years -- I wouldn't want to say how many times -- I've asked them about it, and a lot of times it seems to me to be from moisture getting in the lines or something like that that we have the problems.

When we get lately here now for the last, I don't know, probably last month we were having some problems with the phone lines and we were putting up a new building in Carpenter for our fertilizer shed. And

one of the construction guys cut one of the phone lines. And so he got in his vehicle and on his cell phone, called in and made the complaint, or told them, I guess, that he had cut the phone lines. And that was on 2 o'clock on a Tuesday afternoon. I would believe it's probably a week ago yesterday.

And we called in -- and he called in and reported that they had cut the lines. It was approximately 3 o'clock the next afternoon when the repairman showed up to fix the line. Upon arriving, he showed up at the office and asked about the line. We went down to the phone, or to where the phone line was severed, and we were talking to him about it. And the guys that were digging the construction site, they had the lines located and there had been a mark painted on the ground where it was at and they dug in. They only needed to dig in about six to eight inches, and they took their backhoe and they made the first swipe, which was approximately four to five inches and they severed the phone line. So the phone line was not very deep in the ground.

And the telephone repairman that was there at the time -- I didn't get his name -- said that there would not be any charge to fix the line because the line was not buried deep enough. And at that time I

had asked him, you know, about the double-talk and stuff we have been getting. And a lot of times he said the double-talk and things like that were caused by the moisture in the line or weather-related from, you know, the moisture that we've had.

And other than that, I guess we do have problems once in a while with the phone like the other people have said. We'll get one full ring, or we'll get sometimes even a half a ring and that's about it. But when you do, if we're right by the phone and you pick it up, you can answer the phone and carry on a conversation. I mean the people are there. It's just that the phone doesn't ever give a full ring.

And as far as at home, in the complaint that I filed at home, we do have problems with the phones going out. A lot of it, yes, has been weather related. As far as the voice part of it, I also asked the repairman that was in Carpenter that day why it was sometimes when we would -- when somebody would call in, why do we -- it sounds like -- sometimes sounds like they're talking in a tin can. And he kind of referred back to that as being the same thing as a moisture problem or moisture in the lines or something to that effect.

As far as getting on the Internet, I

personally haven't tried to get on the Internet yet. I've talked to some private individuals that service the Internet deal, and they have also told me that they've had little luck in our area of having anybody being able to access the Internet. And as far as Caller ID, one of my family members received Caller ID for Christmas and they hooked it up according to the instructions and stuff and we could never get anything. I mean it wouldn't even show first digit of a number or anything.

MS. WIEST: Anything else?

MR. MADSEN: Nope.

CHAIRMAN BURG: Mr. Welk.

MR. WELK: Thank you.

CROSS-EXAMINATION

BY MR. WELK:

Q. Good afternoon, Mr. Madsen. You said you were the manager of the Willow Lake Elevator in Carpenter?

A. Right.

Q. And you've filed a complaint also in your personal capacity; is that right?

A. Yes.

Q. And just for the Commission's information, where do you live relative to the town of Carpenter,

your personal residence?

A. Probably the easiest way to go would be a half mile south back to Highway 28, four miles west to the Yale road, and then three and three quarters mile north on the west side of the road.

Q. And is your principal occupation the manager at the elevator, or do you also farm?

A. I do a little bit of farming on the side, yeah.

Q. In your personal residence what type of telephone service do you have?

A. We just have one line coming in.

Q. Have you asked to put a second line in?

A. When we had the -- when we first moved our house in -- I have to think a minute -- in '86, I believe, when we first called, we were living in a farm place about two miles straight south of where we are right now. And at that time when I had called the telephone company to have to find out about moving our phone from that place up and being able to keep the same number and all that, the guy said that that would be the only way we would be able to do it because there was at that time no other lines available. And I didn't understand at that time, I guess, what he meant. But he said that that was the other -- that

would be the way we would get it is that line would be brought out. It was my understanding that there wasn't, unless somebody moved or something, there wasn't another access.

Q. Have you ever asked to get a second line at your farm?

A. Not at the new one we're at now, no.

Q. The line that you're talking about the scratchiness, have you ever made a report to U S West?

A. To the repairmen that have been out there. There was a repairman that come out from Huron. I believe his name was Pat Coyle.

Q. When did you make that report?

A. That would have been probably, I don't know, it's been like '87 or '88 right after we had moved in because --

Q. Ten years ago, you're saying?

A. Yeah, the first time. And I asked him how come the phone lines were so scratchy. He's the one that put it in. And he came out and checked on it, and he went down to the little box and did some stuff and it cleared it up. And as far as talking to the repairmen that have come to Carpenter, you know, out fixing various problems and speaking with them about why it did that, and a lot of times I guess they told

me it was moisture in the lines or had a lot to do with the weather.

Q. But you've had these informal conversations and then that you described also when the wire got cut?

A. Right, mostly with the repairmen.

Q. But have you ever made any formal trouble report since the one ten years ago on your personal line?

A. No.

MR. WELK: No further questions.

MS. WIEST: Miss Cremer.

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. And I was keeping notes but maybe not that good. Did you say you could hear others talking on your phone?

A. Yes, especially the business phone.

Q. And what about at your residence?

A. I'm not really around home that much. I'm not on the phone. The wife has mentioned several times that they've been really scratchy and things like that.

Q. Okay. When that phone line went out for that 25-hour period, who was all without service?

A. It affected the one side of the street.

Q. And who would that all be?

A. That would have been the Post Office and the Cenex.

Q. And the Cenex, is that just the gas station or that's the fertilizer?

A. The fertilizer shed, the Post Office. We've got a building in between the Post Office and the main office that is my CPS, crop production specialist, office and our main office.

Q. So all those offices went without service for 25 hours; is that correct? Is that what you're telling us?

A. That's correct.

Q. During the week?

A. Yes.

Q. Did you lose money?

A. Definitely.

Q. Do you have an idea how much?

A. Right offhand it would be hard to say. I would say in Carpenter we probably average -- well, we do 2.2 million dollars of business in Carpenter a year. So if you divide that by the 300 days a year that you're open would be an approximate guess.

Q. Okay. I'll let somebody do the math on that later.

A. A lot of people -- we do have 800 number access to Willow Lake so people do call Willow Lake to find out what the phone problem was. And then we do have two-way radio contact so they could call us if there was an emergency. But a lot of people, you know, had stopped by. In a local community like that if they can't get you on the phone, most of them come through town or whatever and they'll stop to find out what the problem is.

Q. Okay. As manager of Willow Lake Elevator -- well, let me talk about your residence first. Where would you get law enforcement out of?

A. This gets to be a tricky question. I live in Spink County.

Q. Okay.

A. So the law enforcement would come out of Redfield, which is long distance. The fire and ambulance comes out of Willow Lake.

Q. Where do your children attend school?

A. My children go to school in Doland.

Q. Do you know do they have Internet access?

A. Yes, they do.

Q. Have your children ever talked about having assignments in school and working with the Internet?

A. My oldest boy is a sixth grader at Doland,

and he's come home at night and inquired sometimes rather emphatically that we get on the Internet because they are using it so much in school. But it is my understanding that the teachers really don't -- they kind of make it an option. If you have Internet access at home, you can do some assignments and stuff on the computer. But I don't think that they're graded differently if they don't.

Q. Do you feel your children are being disadvantaged from an educational standpoint?

A. Yes, I would say so.

Q. By not having the ability?

A. Uh-huh.

Q. You said you've lived at that your current place since eighty--

A. Six. From where I'm living right now, Karen, I grew up a quarter mile south. So I've -- from my home farm I've never been two miles in 36 years.

Q. At your residence are you current on your phone bill?

A. Yes.

Q. Do you know how much you pay for a local rate?

A. I believe it's right around 15, 16, or something like that.

Q. Okay. Do you know how much you were paying ten years ago?

A. I was thinking it was like 12 something, but I wouldn't say exactly.

Q. Do you have any more services than you did ten years ago?

A. No.

Q. What relief would you want the Commission to order here?

A. I guess from the business standpoint, the ability to be able to, like Miss Grann said when she was giving her testimony, to be able to hook up with the AgriSource out of Minneapolis. We do a lot of crop consulting in our area, and my CPS and I, we send information in in the mail, like the soil tests to AgriSource, and then they in turn evaluate the soil and then on our AgriSource computer they send back the information of the soil test as to what the farmers need for nutrients on their fields. We have been able to get when they have been able to make connection. A lot of times we get a third or two-thirds of the information that's coming back. They'll send us ten soil reports or soil tests and out of the ten w. maybe get four.

So I guess what I'm asking is would be to

have the lines upgraded so we are able to access the information from AgriSource in terms to further promote business growth and as far as at home to be able to allow us to have the Internet and Caller ID.

Q. And at home -- and I may have asked you this. I'm starting to lose track. You said you have had noise on the line?

A. Yes.

Q. Okay. So you would also like the upgrade to include cleaning up the noise on the line?

A. Right.

Q. And the double-talk, I think you mentioned the static. Have you ever had an occasion to call for fire?

A. Yes.

Q. Medical?

A. Both.

Q. Has that ever been a problem getting ahold of those?

A. During one winter storm that we had in last year, the big blizzard of '97, or whatever it was, the phone lines went down. My uncle is 95 years old, still lives at home. He is diabetic. He had fell during the storm, and it was a little bit -- we didn't get down to check on him right away for the fact that of the storm

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A. During one winter storm that we had in last year, the big blizzard of '97, or whatever it was, the phone lines went down. My uncle is 95 years old, still lives at home. He is diabetic. He had fell during the storm, and it was a little bit -- we didn't get down to check on him right away for the fact that of the storm

being so bad. He's just a quarter mile south of us. And when we did finally get down there to him, the weather had cleared, we were able to get him to town. But had there been phones at that time we probably would have had to call, yeah.

Q. If the Commission were to order the relief that you're requesting, would that accommodate your family's needs?

A. Yes.

MS. CREMER: Thank you.

MS. WIEST: Commissioners, any questions?

COMMISSIONER SCHOENFELDER: I have a couple just to clear some things up that I probably didn't understand. You talked about at the business, at the elevator, when an employee cut the phone lines, that was a construction company that cut the phone lines?

A. A construction company, yes.

COMMISSIONER SCHOENFELDER: What?

A. A construction company.

COMMISSIONER SCHOENFELDER: They had called for a locate?

A. Right, the line had been located. The guy that was doing the digging told me in most areas where they're at the lines are buried 18 inches. I don't know if that's a requirement or anything like that, but

they were under, I guess, the assumption of their own if they were only going to go in six or seven inches, that it wouldn't be a problem.

COMMISSIONER SCHOENFELDER: Okay. And then you talked about Caller ID and I believe you wanted that at your residence?

A. Right.

COMMISSIONER SCHOENFELDER: And you said you got Caller ID for a gift, but did you try to order it from U S West? I mean you have to pay for Caller ID.

A. Right. They called in for it, and it was my brother that lives on the farm right beside me, and they were unable to get it.

COMMISSIONER SCHOENFELDER: Okay. I just want wanted to clear that up that you had called and taken care of that.

A. Right.

COMMISSIONER SCHOENFELDER: That's it, I think. Thank you.

MS. WIEST: Any other questions of this witness? If not, thank you. (Witness excused.)

(AT THIS TIME A SHORT RECESS WAS TAKEN.)

MS. WIEST: Let's get started again. I believe we're on TC98-012, Claude Glanzer.

CLAUDE GLANZER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

MS. WIEST: Go ahead state your name and address and explain your complaint, please.

MR. CLAUDE GLANZER: I'm Claude Glanzer. I live at 41173 197th Street, Carpenter, South Dakota. I guess my complaint was on the Internet. We tried to hook up the Internet. We couldn't. We tried to hook up the Caller ID, and we had called U S West on that. And they had us check several different things on the ID box. And we called, I think, three times we did; and they said -- this was last April when the flooding was there. They said something about the problem putting a new line across the James River on the bridge. And so we let that go for a few months, tried it again, and got the same results. And we told them we wouldn't get it out here on our lines.

And also, I guess, the line quality. We've had the double-talk on the lines. We've had some static that, I guess, with the static and the noisy lines is something I've grown up and didn't pay much attention to that, I guess. And we would -- I guess we would really like the Internet and the Caller ID on the

farm with the Internet to pick up the market prices, to just be able to get the E-mail back and forth from different businesses and friends and kids in college. I guess that's the extent of it now.

MS. WIEST: Thank you. Mr. Welk.

CROSS-EXAMINATION

BY MR. WELK:

Q. Good afternoon. Can you tell us where you live in relation to Carpenter?

A. From Carpenter you go a half mile south to Highway 28, two miles west, take a left, two miles south, and then about a mile and a quarter west again on the south side of the road.

Q. Is your principal occupation farming?

A. Yes, it is.

Q. What type of telephone lines do you have to your residence?

A. We have a single residential line.

Q. Have you ever -- how long have you lived at that place?

A. All my life, 44 years.

Q. I wasn't going to ask that. You look like younger than that. Have you ever -- did you ever call in a trouble report to U S West other than the Caller ID situation that you had recently?

A. Other than the ID recently, we haven't. We have called in the past phone outages and some static on the line.

Q. Did you call and report that?

A. Yes.

Q. When did you report that?

A. Oh, that's been, I don't know, I suppose a few years ago. I'm not sure.

Q. Over five years ago?

A. It could be.

Q. Anybody come out after you reported it five years ago?

A. Yes.

Q. Was it fixed then?

A. Yeah. It happens, you know, not very often. Randomly.

Q. But other than that complaint five years ago, that's the last complaint you've had about the voice quality?

A. Yes.

Q. How did you come to file your complaint in this action? Did you call the Commission?

A. No. I've -- in talking with the neighbors around, I heard that there was the process of getting a complaint. I went through the Cenex and asked for a

form.

Q. These forms must have been sitting at the gas station then?

A. I asked me for Mike and the bookkeeper there how to get one.

Q. From the Cenex gas station?

A. Yes.

Q. Have you ever had any conversations about your complaint other than perhaps in the last day or so in preparing your testimony?

A. No.

Q. Do you know what you pay currently for your residential rate?

A. I'm going to guess between 15 and 16 dollars.

MR. WELK: Nothing further.

MS. WIEST: Miss Cremer.

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. Do you have children at home, Mr. Glanzer?

A. Yes. I have two boys and a daughter.

Q. And where do they go to school?

A. I have a senior boy and a freshman girl. They go to James Valley Christian. And my oldest is right now he's working for the Willow Lake Elevator

through the semester and the summer to get money for college.

Q. Okay. Do they have Internet, do you know, at James Valley?

A. Yes.

Q. Have your children ever mentioned to you that this would help them? And we're not even talking in terms of using Internet for pleasure purposes, but for educational purposes.

A. They've made a comment on writing reports that you can get a lot of stuff off the Internet in school.

Q. And they would be allowed to do that at the school, obviously, if they have Internet? They encourage them to use the Internet?

A. Yes.

Q. Do you think as a parent that your children are being disadvantaged for educational purposes by not having access to the Internet?

A. Yes. I think it would be a great advantage if they had it.

Q. And what about you mentioned under a little bit for business purposes. Again, discounting the Internet, which is kind of fun to get on and surf, but you want it for business purposes also?

A. Yes. I guess the main thing right now would be get the prices on grain. It would save.

Q. Goes to your livelihood; is that right?

A. Yes.

Q. Your economic livelihood? Where do you get law enforcement out of?

A. Huron, here in Beadle County.

Q. Where would you get fire and medical services from?

A. That comes from Willow Lake.

Q. Have you ever had an occasion to call any of those entities regarding an emergency?

A. Yes, we have called ambulance out.

Q. Okay. Did you have any trouble reaching them by phone?

A. No.

Q. Have you ever had any outages at your house?

A. I guess the major one we mentioned earlier during the ice storm. There had been other ones just for a brief period of time.

Q. And I'm just curious why don't you ever call every time your phone goes out and every time there's noise and any time there's double-talk or whatever else? Why don't you call U S West?

A. Well, I guess a lot times it's just don't

want to be a pain in the neck, I guess. It doesn't last, you know, real long.

Q. Are you inconvenienced?

A. Yes. If you want to use the phone at that time, you have to hang up and try again sometimes. Or, I guess, you know, it's something we've had, I've groan up with.

Q. You've just grown up with that type of service?

A. A lot of the times, yes.

Q. Okay. In your opinion, do you think they have that sort of service in Sioux Falls or Huron?

MR. WELK: Objection.

MS. CREMER: In his opinion.

MR. WELK: What foundation does he have to know what the service is in Sioux Falls? He spent 44 years out here.

MS. CREMER: I'll ask the question.

Q. Have you ever had an occasion to use a phone in anywhere outside of Carpenter?

A. Yes.

Q. And have you ever experienced the type of problems when using that phone that you do in Carpenter?

A. Not that I can recall.

Q. So in your opinion, do you think those that live in Sioux Falls and Huron have the same type of problems with their phone that you did?

MR. WELK: Objection. Foundation.

MS. WIEST: Overruled.

A. I guess I don't use the phones that much there to really be able to answer that.

Q. Okay. Your complaint, as I understand it, is not that U S West doesn't respond when you do call them. You called them once, and they responded here. That's not the problem here. The problem here is the quality of the phone lines themselves; is that right?

A. Yes.

Q. It's not the people who come and fix the line; it's the lines themselves; right?

A. That's right.

Q. Okay. How long have you had your phone in your current residence?

A. Since the current residence -- well, I guess we moved a different house on the yard. That was in '91. Before that we've had it since '77.

Q. So you have been paying for phone service since 1977; is that right?

A. Yes.

Q. And you're current on your phone bill?

A. Yes.

Q. Okay. Oh, you told Mr. Welk that you thought it was between 15 and 16 dollars. Do you know what you were paying ten years ago?

A. No, I don't.

Q. Are you getting any more services than you were ten years ago?

A. No.

Q. And what is it you would like the Commission to order?

A. I guess I would like to have the phone line upgraded to be able to use the Internet to have the Caller ID, and I guess along with that would have the quality of the voice conversations too.

Q. Okay. And if the Commission were to order that, that would accommodate your needs, you and your family's needs?

A. Yes, it would.

MS. CREMER: That's all I have.

MS. WIEST: Commissioners, any questions?

CHAIRMAN BURG: I have one. Have you requested -- you indicated in your complaint that you couldn't get a second line. Have you requested a second line?

A. No. We were thinking about it when we got --

when we tried hook up with the Internet for that, but we couldn't hook up with the Internet, we had no need for it.

CHAIRMAN BURG: Is that what you're saying?

A. Right.

CHAIRMAN BURG: But you don't know whether it's available to you or not?

A. No, I don't.

CHAIRMAN BURG: That's all I have.

MS. WIEST: Any other questions of this witness? If not, thank you. (Witness excused.) We can go to TC98-016. Keith Glanzer.

KEITH GLANZER,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. KEITH GLANZER: Keith Glanzer. 19464 17th Avenue, Carpenter, South Dakota. My farm is seven miles southeast of Carpenter. Farming is my main business. I also have a fuel business and seed business as well. I lived on that farm all my life, which is over 50 years. And like Claude said, you just kind of grow up knowing the phone isn't always going to be crystal clear, and it's usually there when we need it though.

And over the years we've had different problems with noise on the line or double-talk. Just here the last couple days in that storm two days ago, I was on the phone and just like that we were cut off. And I just assumed that there was a power outage or something. We didn't lose our phone service, but we were disconnected. And we do experience another voice on the line occasionally.

Here a few years here we were having a pretty serious problem. You could actually listen to the people talking and understand them. And we reported that, and they came out and found the problem and fixed that. And it's been good for quite some time, but now again we're experiencing that again. I can hear a second voice on the line when we have conversation.

As I noted in my complaint, in '97 we expanded our house on the farm and we upgraded our computer so we could take advantage of the information on the Internet. And when we did that, we found out we couldn't get on line anyway. So we did contact U S West and asked them about that, and they sent a technician out and he checked our line out and said, "You know, it's about as good as you can expect out this far from your switches, and there's really not a whole lot we can do for you." And I guess we just

accepted that.

We also -- well, I'm a Pioneer sales rep and they migrated us onto laptop computers during this same time, and we spent a couple days getting schooled on that; and brought it home and spent three days with support people trying to get it to work. And they couldn't believe it didn't work, you know. So they had us take it closer to town to some friend's house and we hooked it up there and it worked fine, so it was definitely a line problem.

So then we heard about this ISDN line and figured let's try that. We can -- it's worth a try because I don't think seven miles is an option because there was only one line coming in. So we called a U S West person, I guess, in Colorado; and she assured us that, yes, you can get ISDN, no problem. But we didn't hear from them. And to make a long story short, about three months they finally admitted they couldn't serve us with ISDN where we're at. We're just too far out. So that kind of took care of that. And it isn't that we, you know, necessarily wanted to have the -- you know, the other choice was -- it wasn't our first choice, but it was an option we thought.

So I guess at this point as far as my Pioneer business, we went back to the fuel system we were

using, even though I had a new computer I couldn't utilize. And I had Assist, which is a field information system of wealth and knowledge. I hear other sales reps talking about that I don't have available to me at this time. Like I say, as far as noise on the line, once in a while. That's just something you kind of put up with. But it's for the most part pretty good. There's times you get cut off or something and it's just part of being out that far, I guess.

That's pretty common for a caller to say, "I can hardly hear you. Can you speak up a little bit?" So you have put it right up there and talk a little louder. That was a problem. That's all I have for right now.

MS. WIEST: Mr. Welk?

CROSS-EXAMINATION

BY MR. WELK:

Q. Good afternoon.

A. Hi.

Q. The complaint that you filed with the Commission was a written complaint; correct?

A. Yes.

Q. It was done under oath; correct, signed it before a notary?

A. Yes.

Q. You didn't mention one word, did you, in your written complaint about any noise problems on your line?

A. No, not in that because it was more working with the trying to get on line at that point.

Q. Didn't your complaint say, quote, "I would ask the PUC that they would apply pressure to U S West to improve our phone lines so you might have acceptable levels of data transmissions"? Isn't that what you filed with the Commission?

A. Uh-huh.

Q. Is that correct?

A. Yes.

Q. Have you ever given a trouble report to U S West about this noise that you described or this double-talk?

A. Yes. I referred to that in my presentation here.

Q. When did you file that report?

A. That's probably been back a few years, in the last five years.

Q. One report in the last five years?

A. I can't say just one. I know they did come out and fix it then. But we did call them. We had

trouble now and they were out checking our lines again, so we've reported it more than once.

Q. How many reports have you made in the last three years?

A. I wouldn't want to say.

Q. But in the last three years have you reported any of the noise on the line that you talked about today?

A. Probably double-talk.

Q. You reported that in the last three years?

A. Like I say, you know, time goes pretty fast, but I know we had a serious problem with that, I'd guess, in the last three years, yeah.

Q. What about in the last two years, have you made any reports like that?

A. Not on the double-talk. It's happened now but you just put up with it, I mean, as far as they can't do a lot about it so you just accept some of those things. If we had crystal clear phone lines all the time, we probably would call on it.

Q. And you don't have any problem with the people that have come out and serviced you?

A. The technicians?

Q. Right.

A. Oh, no, very nice.

Q. How did you fill out your complaint form? Did you call the Commission, or did you pick it up at the Cenex like the rest of the people?

A. I talked to the Commission a couple times. Actually, we were in the process of our problems here working through them kind of, not aware of the Cenex, but they had them working on the doing the same thing from two different.

Q. So you filed a separate complaint?

A. Yes. I mailed mine in separately.

Q. And you didn't -- who did you talk with at the Commission about?

A. Oh, let's see, yesterday was the first time I had met Steve up in Carpenter. Maybe Leni? Is there a Leni?

Q. Leni Healy, consumer complaint person? Is that the person you spoke with?

A. Yeah. When I was also out there when the rest of the group presented their complaints, but mine was there but hadn't been filed yet so that's why.

Q. You were the other guy that hadn't quite filed theirs?

A. That's right.

Q. So you were one of the last complaints?

A. Probably. That's why, like I say, my deal

was kind of separate from theirs.

Q. How many lines do you have in your place?

A. We just have one.

Q. Have you ever asked for a second line?

A. Yeah, we did. That's when we pursued this ISDN line.

Q. Do you know what the rate is? You pay a business rate or residential rate?

A. I know our phone bill for a year runs about $1,200 a year, but actually --

Q. Basic rate is you don't know?

A. 20 something maybe. I'm just guessing.

Q. You don't know?

A. I don't know.

MR. WELK: No thanks. I have nothing further.

MS. WIEST: Miss Cremer?

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. Where is law enforcement? Where do you get law enforcement out of this?

A. That would be Huron.

Q. Are you in Beadle County?

A. Yes, in the corner of Beadle County.

Q. And what about fire and ambulance?

A. That comes out of Willow Lake.

Q. And have you ever had an occasion to call any of those entities?

A. Fire years ago. Ambulance, not in recent years.

Q. Have you ever had any -- and I don't remember now has your current line -- you said the other day during the storm it just quit working, or you were disconnected?

A. Right. We were having a conversation and it just clicked. We were done.

Q. Has there ever been an occasion when you can't attribute it to weather that you know about?

A. I'd have to say that hasn't happened often. The other night it did ring once, just kind of a half ring and quit.

Q. Does it do that a lot?

A. I wouldn't say a lot.

Q. Do you have children at home?

A. No, we don't. We have children. We like to commute with E-mail, you know.

Q. Right.

A. I know we have -- when the kids come home they can't believe how slow our computer system is with

trying to get E-mail with that compared to where they're at.

Q. Where are they at?

A. I have a son that's in Woonsocket. He's on Santel. And a daughter is in Iowa.

Q. So the Internet, that's for business purposes; is that right?

A. Basically that's what I use it for.

Q. That's what you would want to use it for?

A. I have with my business with Pioneer, it's all done with the computer on phone lines and phone modems. So, you know, when I have orders to send in, that's all done on the modem on the phone.

Q. Okay. So you require reliable phone lines for your economic livelihood?

A. Absolutely. When you're 30 miles out, you do a lot more stuff on the phone than if you could run across the street and do it.

Q. How long have you lived in Carpenter?

A. I've been on the place where I'm at for 50 years.

Q. And have you had a phone? Paid for a phone out there?

A. The same phone has been there all the time. We've never been late on a phone bill.

Q. Okay. Do you know are you getting any more services than you did ten years ago?

A. I would have to say not. We don't -- you know, we don't have Caller ID or any of that stuff. You know, I can call my son, and he'll say, "Hello, Dad." He knows I'm calling before he picks up with Caller ID.

Q. Do you know are you paying more for your phone than you were ten years ago for local service?

A. I've never really checked that out. I assume we are because everything else goes up, but it's not a big issue.

Q. Okay. What relief would you like the Commission to order?

A. Well, I guess I'd just like to see our phone lines updated. I mean there aren't any of us farming with equipment as probably as old as our phone lines are. We're living in a day and age where technology is where it's at in communication; and, you know, to have phone lines that don't handle what we want them to do, it's just in this day and age is just pretty poor.

Q. So if the Commission were to order what you have asked for, would that accommodate your business and family needs?

A. Yes, it would.

MS. CREMER: That's all I'd have.

MS. WIEST: Commissioners?

CHAIRMAN BURG: Is there a -- what percentage of your business, is your seed business? Is that a large percent?

A. I would call it a sideline. My farming is my main business.

CHAIRMAN BURG: And what kind of services is this Pioneer offering that you can offer your customers that you would use the computer for?

A. Well, with this new system there's a wealth of knowledge on there. You could, you know, answer any question that a customer might have.

CHAIRMAN BURG: Are your customers depending on you for that service?

A. I think they will more and more as that becomes available, yeah. You know, with all these new technologies, it's almost full-time job keeping up with, you know, the new hybrids and the new technology, and that.

CHAIRMAN BURG: So do you have a laptop now, you say?

A. No. I sent that back. I have a PC. The laptop was run on 9,600 bauds, or bytes, whatever, and we run on 45. That's maximum.

CHAIRMAN BURG: Did you say the Pioneer Company furnished you with a laptop as part of the service or not?

A. I would have to pay a lease on that. But they were encouraging it. They wanted us to have it.

CHAIRMAN BURG: And if the telecommunications was updated where you could do that, would you get one then?

A. I already had it and I sent it back because it wouldn't work. All the other reps in the area have one.

CHAIRMAN BURG: That's all I have.

MS. WIEST: Any other questions?

COMMISSIONER SCHOENFELDER: But you do have some kind of Internet service now where you do have a computer on line? You said it was slow?

A. Just E-mail. We can't get on line but we can do E-mail if you're patient enough.

MS. WIEST: Any other questions of this witness? Thank you. (Witness excused.) Any other witnesses for the complainants?

MS. CREMER: Is Bob Syring here? He was going to speak to the education and that. He had an eye appointment.

MS. WIEST: Any other witnesses for the

company?

MS. CREMER: Can I just call him out of order?

MS. WIEST: That should be fine. Mr. Welk.

MR. WELK: Do you want us to start calling our witnesses? We call Mr. Wegman, Steve Wegman.

STEVEN WEGMAN,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WELK:

Q. Would you please state your name.

A. Steven Wegman.

Q. And, Mr. Wegman, are you a member of the Public Utilities Commission staff?

A. That's correct.

Q. And what is your educational background?

A. South Dakota State University and a few classes and a variety of different technical workshops put on by Bell Corp Industry Groups, Department of Energy. I didn't bring my full resume with me.

Q. Did you have a degree from South Dakota State?

A. No, I didn't.

Q. The technical conferences that you have

attended, what type of information have you learned, Mr. Wegman, at those conferences?

A. Basically with the computing networks, interconnections with wireless, wire type telephone connections, basics of telephony.

Q. I'm sure that many of us in the room know what the word telephony means. Would you tell us on the record what your understanding is of that term telephony?

A. Well, telephony, the way that I would use it, would be providing 300 to 3,000 hertz voice grade service, or equivalent to 9,600 bytes per second.

Q. So that's an engineering technical specification?

A. That is an FCC requirement.

Q. Does telephony refer to voice and data or both?

A. Telephony can be -- people use it intermittently and interchange those terms much like baud rate and byte rate.

Q. And what is your understanding, telephony includes both voice and data transmission?

A. That's correct.

Q. As part of your functions with the Commission, have you also looked at the legislation

that was passed in 1997 that was referred to as the Governor Janklow's Vision Bill, 41-31-60, and statutes that have passed?

A. Correct.

Q. Is one of your functions on the staff is to look at that Vision Bill and to monitor some of the policies and regulations that are called for in that Vision Bill?

A. Correct.

Q. Now, I'd like to just talk with you a little bit about some of the technology that you've been learning about in the various conferences that you've been attending. Tell us what you've been learning at the conferences about the technology of landline migrating to wireless technology.

A. In the area of like wires, local loops?

Q. Tell us what you've been learning about landline transmissions versus wireless transmissions, generally speaking.

A. Basically there is talking of migration of moving from using landlines, migrating from the landlines to the local wireless type of loop connections. It does have some -- has quite a bit of limitations. One of them is capital, one is deployment, one is customer base, one is the technical

aspects of operating the system.

Q. A landline system is like U S West with fixed facilities; correct?

A. That's correct.

Q. And a wireless carrier, explain what that is for purposes of the record.

A. A wireless carrier could be something like what we would refer to as special mobile radio, could be cellular provider, could be personal communication systems network, could be satellite-based, are some examples.

Q. And what do you see in regard to the conferences that you've attended regarding the Internet providers and utilization of the Internet through landline facilities versus the wireless facilities?

A. Typically the wireless providers are looking more at an urban environment rather than a rural environment based on cost.

Q. Is the Internet accessible through wireless providers today?

A. In certain parts of the United States, yes.

Q. And where are generally those areas?

A. Would be, for example, I don't know of any -- excuse me. In the southeast part of the state would be like Sioux Valley Wireless through their microwave

system, past microwave system. I'm trying to think if there are any other. I don't know of any other up and operating currently. I did talk to a direct PC, which is a satellite-based Internet provider across the United States and Canada. And they referred to me that they did not have any customers in South Dakota currently. But one thing I found really interesting was with the satellite providers was that you need a telephone landline to connect to the satellite system, and that connection must be 9,600 bytes per second.

Q. What do you learn at these conferences is that requirement, is that going to change, that 9,600 requirement?

A. The 9,600 bytes per second is the floor.

Q. But the conferences that you've been attending, has there been any discussion about the change of the floor or not?

A. Not.

Q. The satellite provider -- so we have one satellite provider in South Dakota, or one wireless?

A. We have one wireless provider.

Q. That's Sioux Valley Electric near Sioux Falls?

A. Sioux Valley Wireless, correct.

Q. And they are providing Internet access, are

they not, to the Sioux Falls Catholic public schools?

A. Correct.

Q. Are there any schools, either public or private, that have access to the Internet through a wireless provider?

A. Not that I'm familiar with.

Q. What about the schools that are in the Sioux Valley area that they serve? I mean Colman, Egan, those areas around in there?

A. Last time I checked, their service was provided by U S West.

Q. So except for the Sioux Falls Catholic schools, are those the only schools you're aware of having Internet access through a wireless provider?

A. Correct.

Q. What is the cost currently of the wireless provider Internet access?

A. You mean as far as equipment or monthly charge.

Q. The monthly charge.

A. I didn't reserve the monthly charge on that.

Q. And the conferences you've been attending, what are they telling you about the evolution from landline to wireless and how that may be available? What's the time frame?

A. They're looking between a three- to five-year environment. One of the interesting things I should note, though, is that they're mainly targeting the urban market and not the rural markets.

Q. The one that you talked to, the PC provider that you discussed?

A. In the PC provider for both direct PC and for the SMR's and the cellular providers who currently have service in South Dakota.

Q. What about Sioux Valley, did you have any discussions with them?

A. No, I did not.

Q. And are they the biggest wireless provider, Internet provider, in South Dakota?

A. Yes.

Q. Now, did you have any involvement in the complaints that were filed with the Commission in this matter?

A. They contacted the Commission office.

Q. Who is they?

A. Willow Lake Elevator.

Q. That was the first complainant that was filed?

A. Correct.

Q. And then what did they do after they

contacted the office?

A. They talked about their frustration and wanted to know if they could file a formal complaint, which I then put together two complaint forms and put them in the mail that day.

Q. Other than putting the complaint forms in the mail, did you take any other action or do anything regarding these complaints?

A. Well, it happened to be I was going to be in Huron the next day. So I came to Huron, had a meeting with the South Dakota Electrical Council. After that was done, I drove through Carpenter, South Dakota.

Q. And what did you do? Did anyone tell you to do this or did you do it on your own?

A. Usually when we get an inquiry and if I'm in the area, I'll stop in to see what's going on. Their complaint was kind of what we classify as not the formal type of complaint. It's not a slamming type issue. They were frustrated in getting response from U S West.

Q. Did you decide to do this or someone else tell you to go?

A. I decided to do this.

Q. On your own?

A. On my own.

Q. You went and were at this conference and drove up to Carpenter. And what happened then?

A. It's pretty hard to disguise a state car in Carpenter, South Dakota; and they knew that they had an indication from where I was at from the Public Utilities Commission. And I just told them that I'm from the Public Utilities Commission and I was curious on what their concerns were and if I could take a look at their telephone network.

Q. You went to the elevator?

A. Went to the elevator at Carpenter.

Q. Did you talk to anybody else besides the people at the elevator about their complaint?

A. That's it.

Q. Did you leave -- were you the one that left the blank complaint forms that we've heard about?

A. No.

Q. So you didn't leave blank forms?

A. No. I put them in the mail the day before I left for here.

Q. How many did you put in the mail?

A. Two, because most people when they make the first mistakes on the first one, they can fill out the second form.

Q. That was for the Willow Lake complaint?

A. Right, mailed it to Willow Lake.

Q. Did you send any other forms up in the area?

A. No, I did not.

Q. So this, as far as you know, would have been the initial blank form was copied and left at the Cenex? Do you have any information about that?

A. I have no information.

Q. Did you ever go back after that initial conference that you had up there at the Willow Lake Elevator?

A. No, except for yesterday.

Q. Before the hearing to review the facilities?

A. Right.

Q. You were there once to take the initial complaint and other than yesterday to visit the facilities?

A. That's correct.

Q. Did you determine what the local rates were up there?

A. They're around $16.40. I'd have to verify that number correctly.

Q. That's for residential rate?

A. Correct.

Q. What is the business rate?

A. I did not look it up.

Q. Were you able to determine how many subscribers were on the system that served the Carpenter area?

A. No.

MR. WELK: I have nothing further.

MS. WIEST: Miss Cremer, do you have any questions?

CROSS-EXAMINATION

BY MS. CREMER:

Q. The last question that Mr. Welk asked you as to how many subscribers, how come you don't know that number?

A. I was assigned the case some mid-part of March as a staff analyst and sent in my data request as soon as one day after I was assigned the case, and U S West has yet to acknowledge my data response.

Q. So what you're saying in laymen's terms is they didn't answer it?

A. That is correct.

MS. CREMER: That's all I'd have at this time.

MS. WIEST: Do any of the complainants have any questions of Mr. Wegman based on the questions by Mr. Welk? Commissioners?

CHAIRMAN BURG: Mr. Wegman, there was quite a

bit of discussion between wireless and wire. In your opinion, and do you ever -- do you see in the short-term future at least, the use of wireless in a rural area for data transmission?

A. In talking to all of the major wireless providers, except for Sioux Valley because what I was looking at was both landline for voice type communications, not just Internet. In contacting all the companies, they had no plans at this time to even look at this part of the area for wireless, even within the next three to five years.

CHAIRMAN BURG: Even the systems you know, is the wireless as effective in transmitting data as landline?

A. No.

CHAIRMAN BURG: Why not?

A. Due to terrain and weather.

CHAIRMAN BURG: And how about is there a difference in capable speeds?

A. Speed is a function of what they put on for equipment. In one of the wireless equipments that we looked at from going from Huron into Carpenter, we could drop into Carpenter, it looked like between $80,000, and that's a bare bones, cheap, cheap system, won't handle more than 24 conversations.

CHAIRMAN BURG: That's wireless?

A. Wireless. It's really expensive.

CHAIRMAN BURG: How would wireless transmission compare to the ability for the elevator to put in dedicated lines?

A. I looked at from a Willow Lake to Carpenter, and we discovered there's a 250-foot mountain in between there so they have to put a 200-foot tower, plus in Willow Lake, to get over the ridge to Carpenter. Their only option, realistically, would be to come from Huron up to Carpenter on a wireless type operation.

CHAIRMAN BURG: But let's take for a minute that the signal would be fine.

A. Okay.

CHAIRMAN BURG: How about the transmission rates and what you want to do?

A. You could get to a T-1.

CHAIRMAN BURG: Over a wireless, if you had good, clear transmission?

A. Correct. But you're also going to need battery backup to have that hundred percent reliability.

CHAIRMAN BURG: That's all I have.

MS. WIEST: Any more questions of this

witness?

COMMISSIONER NELSON: I just have one. Do you believe that the wireless technology for Internet is in the next three to five years going to be a reliable alternative?

A. Only, only in the urban areas.

COMMISSIONER NELSON: Not in rural areas?

A. Not in rural areas.

COMMISSIONER NELSON: Not in the Carpenter area?

A. Not in the Carpenter area.

COMMISSIONER NELSON: Thank you.

MS. WIEST: Any other questions?

REDIRECT EXAMINATION

BY MR. WELK:

Q. Why do you say -- is the answer to Commissioner Nelson's question that it won't be available in the rural area, is that based upon conversations that you've had recently with the other providers?

A. Within the last two months with the recent providers and the amount of capital it's going to take to beef up their systems.

Q. Are you aware of the Microsoft announcement within the last month or so on two-way interactive?

A. Right.
Q. What was that announcement about?
A. Basically it's using a microwave system for data and voice connection, if I remember correctly. I'm not real -- I'd have to go back and review exactly what they had.
Q. That would be available to the Carpenter area?
A. Is it a possibility?
Q. Well, you said you didn't think in three to five years. Is the Microsoft alternative, in your opinion, going to be available in the three to five years to Carpenter?
A. No.
Q. It's not going to be?
A. No.
Q. And what do you base that on?
A. Dollars for customers in the area.
Q. That no provider will pay that much --
A. That's correct.
Q. -- to provide because there won't be sufficient revenue?
A. Correct.
Q. So it isn't that the technology maybe won't be there; it's is the fact the investment won't be

recovered. Is that what you are saying?

A. Investment would be at a higher risk than at other areas.

Q. So I want to get this clear. The technology would be available for the Carpenter area over the next three to five years, but it's your opinion that no satellite provider would do that because it won't recover its investment in the area? Is that what your opinion is?

A. Correct.

MR. WELK: Nothing further.

COMMISSIONER NELSON: I have a couple. Would you say that the technology through the wireless that might be available out there, would you think it isn't going to be there because of the investment?

A. That's correct. To kind of give you an example: cellular telephone current landline system uses a 1:8 ratio between lines to trunks in the central office out. Cellular telephone uses 1:64. They're going to have to increase their system by a factor of eight to ten times what it currently is to compete even with landline phone service without having blocked calls or delayed calls. Internet users use a system much longer than -- they're the longest use customers in minutes of use than any other customer we have out

there.

COMMISSIONER NELSON: So are you saying that the investment for the wireless people would be significantly higher than for the landline people?

A. It could be.

COMMISSIONER NELSON: Do you believe it would be?

A. It probably is, yes.

COMMISSIONER NELSON: Do you also -- would you also agree that U S West has a monopoly there?

A. Yes.

COMMISSIONER NELSON: Would you also believe that -- if I'm not right, correct me -- that because they're a monopoly, they have an obligation to serve, they have a right to a guaranteed rate of return, that the wireless people wouldn't be in that same level playing field; right? They don't have any guaranteed rate of return?

A. U S West has the opportunity to earn up to, while the wireless people it's on the line.

COMMISSIONER NELSON: Right. So would you say that more resources would be available for U S West than for their wireless possible competitor?

A. Could be, yes.

COMMISSIONER NELSON: Would you say that the

wireless people have less opportunity to spread those costs?

A. At this time, yes.

COMMISSIONER NELSON: And that the U S West, being a monopoly, has a captive audience and more ability to spread those costs and an opportunity to recover those costs that wireless people don't have?

A. Correct.

COMMISSIONER NELSON: Thank you.

MS. WIEST: Any other questions?

CHAIRMAN BURG: Yeah. You've heard and been here for all the testimony on these dockets; right?

A. That is correct.

CHAIRMAN BURG: And I believe that U S West established you as an expert witness probably here, an expert in this area. What do you think it would take to bring the services that the people that have filed complaints are requesting?

A. I would love to answer this question had they filled out my data requests.

MS. CREMER: You know, if I could just interrupt, Mr. Chairman, I'm going to call Steve after U S West has testified because they didn't answer our data requests. We don't know what they've got, and so we're kind of waiting on our recommendation until we

hear what U S West has to say.

CHAIRMAN BURG: He will be a witness again?

MS. CREMER: The staff is going to call him.

CHAIRMAN BURG: If I need that question at a later date, I could get it. Let me ask one other one. Maybe I should at that time too. If wireless were a viable alternative, economics-wise especially, and service quality-wise, would there be anything to prevent U S West from using it?

A. No.

CHAIRMAN BURG: If that was a more efficient way to provide?

A. That's correct.

CHAIRMAN BURG: Because they are the provider of this territory exclusively; correct?

A. Correct. They're also an Internet provider, too, in this area.

COMMISSIONER NELSON: Can I clarify one thing just so I'm right here? If U S West made the investment to buy the -- provide the necessary upgrade and allow people to get Caller ID and Internet and all those things in the Carpenter area, it is true that they would be able to require this Commission to order us to allow them to recover those costs; right?

A. Correct.

COMMISSIONER NELSON: Their wireless competitor would not have that option; is that right?

A. That's correct.

CHAIRMAN BURG: Let me back up a second. I believe I said exclusively. I don't know, does U S West have exclusive service authorization in the territory? I believe alternative providers could offer service in the territory; is that correct?

A. I would have to check to see who is, if McLeod or FirsTel are and the other CLEC's are available. But they will still buy service from U S West though.

CHAIRMAN BURG: It could overbill though?

A. They could overbill.

COMMISSIONER NELSON: Even if they didn't have exclusive territory, exclusive serving right, they still would if they made those improvements to provide those services, require us to allow them to recover their costs; right?

A. Yes.

COMMISSIONER NELSON: And their wireless alternative people would not have that opportunity; right?

A. Would be in the risk of doing business.

MS. CREMER: I have one question for you.

Why do you sound like Barry White?

A. I just have a sore throat.

MS. WIEST: Any questions for this witness?

MR. WELK: I want to clear up the record.

FURTHER REDIRECT EXAMINATION

BY MR. WELK:

Q. Mr. Wegman, you indicated in response to Commissioner Nelson's question that U S West is a monopoly in this territory. Didn't you say that?

A. It should be corrected. It operates in a franchised area.

Q. And is there any restriction that you're aware of, of any other provider coming and serving the Carpenter area?

A. No.

Q. So if someone wanted to come in and serve these people, they could certainly do so, couldn't they?

A. That's correct.

Q. Now, in regard to Commissioner Nelson's other question about ordering the cost recovery, I'd like to ask you how the Commission would order -- if the Commission ordered a new system to put in, what would the cost recovery mechanism be for U S West to recover these costs?

A. I would have to do a little more research on that.

Q. So you believe, however, that the Commission has the authority to order a cost recovery mechanism if U S West is ordered to put in these facilities? Is that your testimony?

A. Could you repeat the question again?

Q. It's your belief that the Commission has the authority to order the facilities if it so desires to be put in, but also to allow U S West to recover the costs of putting in these facilities?

MS. CREMER: I would just interject an objection. Steve really isn't an economist. I guess if he knows, but --

MR. WELK: I'm following up on her question.

MS. CREMER: Fine.

MS. WIEST: If he can answer the question. Mr. Wegman, if you know.

A. I don't know the real specifics on that. It takes some research.

Q. But you believe they could order a recovery mechanism, whatever the costs are?

MS. CREMER: Asked and answered.

Q. Is your answer I don't know?

A. I don't know.

MS. WIEST: Any other questions of this witness?

COMMISSIONER NELSON: I guess I have a couple. Since I used the term monopoly, that's the not correct term. So is the franchise service area the correct term?

A. I'd have to look in the legal statute to see exactly what the correct term would be.

COMMISSIONER NELSON: On the costs recovered, if they made those investments, they would have the opportunity to recover those costs likely through a rate base; right, a rate case; right?

A. Not necessarily. I'd rather go back and research that one a little more.

COMMISSIONER NELSON: Are you not the right person to ask that?

A. I'm not the right person.

COMMISSIONER NELSON: Who is the right person?

A. They're not in this room right now.

COMMISSIONER SCHOENFELDER: I need to follow up. In this area -- and we're talking about this area for these complaints are right now -- under South Dakota statute and under the federal statute, there is alternative providers that can come into U S West

territory; isn't that right?

A. Correct.

COMMISSIONER SCHOENFELDER: And if they do so, they can come in generally in under two methodologies, or two ways they could come in and compete and offer services in U S West territory. One is to do facilities-based competition, which means to us put in wireless, or facilities in the ground that would provide what the people in this area would want. The other way they would do that is to use U S West facilities for resale and unbundled network elements of some type. But in the first instance the type of technology that you would use would depend upon the provider who decided to compete with U S West. Is that right?

A. That would be one portion of it. The second portion would be how many customers are out there.

COMMISSIONER SCHOENFELDER: Yeah, but I'm talking about -- I'm not talking about economic recovery. I'm talking about the way you could do it. The other way that you would do competition, or there would be an ability for an alternate provider would be to use U S West facilities and resell them. If U S West facilities will not handle what the people require, we still have the same limitation, do we not?

A. Correct.

COMMISSIONER SCHOENFELDER: Then further than that -- and I lost my train of thought. Just a moment. If U S West invested in better facilities so that these services could be delivered over their network, they still have not lost their customer, have they? They have lost their retail customer, but not the wholesaler?

A. They would have a wholesaler customer, correct.

COMMISSIONER SCHOENFELDER: So they still have a method without under business to recover their costs from some type of a customer to perhaps try to recover their cost?

A. Correct.

COMMISSIONER SCHOENFELDER: Okay. Thank you.

MS. WIEST: Any other questions of this witness?

MS. CREMER: I just have one.

FURTHER RECROSS-EXAMINATION

BY MS. CREMER:

Q. Steve, do you know could ITC come in and build facilities to the complainants, if you know?

A. Could they or would they?

Q. Could they?
A. They could, but I doubt it.
Q. Okay.
MS. WIEST: Any other questions?
FURTHER REDIRECT EXAMINATION
BY MR. WELK:
Q. The reason they wouldn't come in is because the cost of recovery; is that correct, Steve?
MS. CREMER: If you know why ITC wouldn't.
A. Basically it's an expensive proposition because they would have to overbuild everything and they're close, but they're not that close.
Q. And if U S West put the facilities in to upgrade these facilities here, is there any guarantee that the customers will be there through the life of any -- to recover any of the investment?
MS. CREMER: I would object as to speculative.
MS. WIEST: If you can answer.
A. A tornado could take them off the planet tomorrow. These are established farms. They look like they're going to be there for a long time.
Q. But they are under no legal obligation. If U S West put facilities in, they're under no legal obligation if someone came along with a better deal to

stay with U S West, are they?

MS. CREMER: I would object. Really the question is better asked to the complainants than Steve Wegman.

MS. WIEST: Well --

MS. CREMER: Speculation on his part as to whether or not they would stay.

MS. WIEST: It appears to call for a legal conclusion so I'll sustain the objection.

MR. WELK: I have nothing further.

MS. WIEST: Any other questions of this witness?

COMMISSIONER NELSON: Could I clarify something Mrs. Schoenfelder asked? She was asking about the resellers and whether or not their needs could be met through U S West, at least as I interpreted her question, by U S West infrastructure. And if they could not be met, the same limitations of the system would still exist. And you said that was right; right?

A. Right.

COMMISSIONER NELSON: Okay. So what would it take, then, for somebody to be the equivalent of a U S West out there to be a facilities-based provider with comparable kinds of -- or what we would like to be

available out there, let's say, kind of system to be -- what would it take for someone to be a facilities-based provider out there and how long would it take?

A. You're going to need -- it's -- it depends whether it's a terrestrial-based like a landline system. You know, it could take a switch and cable and things like that. If you're going to be an alternate provider, probably the easier way to be would be a wireless. The problem I have answering this question is I still don't have any data on how many customers are in this area, how many -- what type of service they do or do not have. And I need some more basic information. I might be able to answer this question a little bit later after U S West presents its case.

COMMISSIONER NELSON: A wireless provider would have limitations that the landline provider wouldn't have; right, or is that not true?

A. That's true. Its line of site and it's also going to be weather-related.

COMMISSIONER NELSON: Would you consider that to be a level playing field?

A. Not at this time.

COMMISSIONER NELSON: Okay. Thanks.

MS. WIEST: Any other questions?

MR. GALEN WALDNER: Can data be transferred

over wireless?

A. Yes.

MR. GALEN WALDNER: How private is it?

A. Depends what kind of encryption mode you use. But typically it's out there for anybody else to take a look at. Wired systems, hard wire systems, are more secure in that basis alone.

MS. WIEST: Any other questions? If not, thank you. You may call your next witness. (Witness excused.)

MR. WELK: Russ Evans.

RUSSELL EVANS,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WELK:

Q. Would you please state your name?

A. Russell Evans.

Q. And, Mr. Evans, are you the same person who testified this morning before the Commission regarding a complaint of Ben Hofer?

A. Yes.

MR. WELK: In order to expedite this matter, could I ask that the initial questions that I asked of Mr. Evans regarding his background, work experience, be

incorporated in this matter?

MS. WIEST: Any objection? If not, they'll be incorporated.

Q. By whom are you employed?

A. U S West Communications.

Q. What is your current position?

A. I am the engineering manager for South Dakota and Nebraska.

Q. For U S West?

A. For U S West.

Q. And what do your duties and responsibilities include as that engineering manager for South Dakota?

A. I supervise 26 engineers between Nebraska and South Dakota, both in the field and in the center.

Q. How long have you been employed by U S West?

A. It will be 32 years in September.

Q. Would you briefly tell the Commission what your work experience has been and where has it been?

A. I started in 1966 in South Dakota. I had various positions, from splicer, lineman, line supervisor, cable splicing supervisor, and engineering.

Q. Were those in South Dakota?

A. They were in South Dakota.

Q. And generally where were they in South

Dakota?

A. I started in Mitchell. Went from Mitchell to Winner, Winner to Rapid City, then to Spearfish, then back to Sioux Falls.

Q. And then this position that you currently have, where do you live?

A. In Littleton, Colorado.

Q. When did you move to Littleton?

A. I moved to Littleton in September of '95.

Q. And you have overall engineering responsibility for South Dakota?

A. South Dakota and Nebraska.

MR. WELK: Also I would like to move for what was marked in the Hofer matter as Exhibit 3 to be the next exhibit in this file.

MS. WIEST: I believe that's Exhibit 2. Any objection to that map?

MS. CREMER: Can I have one?

MR. WELK: I'll offer which was marked for Exhibit 2 in this case, which was Exhibit 3 in the Hofer matter.

MS. WIEST: Any objection to the map from anybody?

MS. CREMER: I'll need one.

MS. WIEST: Do you have any objection?

MS. CREMER: No.

MS. WIEST: Exhibit 2 has been admitted.

Q. Also, Mr. Evans, this morning I asked you a number of questions about the cost model that U S West used to develop facilities, equipment, labor, and other related materials and costs for construction. Do you recall those questions being asked this morning?

A. Yes.

MR. WELK: And I would ask that all of the questions relating to cost model be incorporated within this record as well.

MS. WIEST: Is there an objection to that?

MS. CREMER: I'm sorry, what were you talking about? I wasn't listening.

MR. WELK: To incorporate by reference all of the questions and answers that were given in the Hofer complaint regarding the development of U S West's cost model and its verifiability that I asked this morning.

MS. CREMER: Sure, that's fine.

MR. WELK: So that will be included in the record?

MS. WIEST: Yes.

Q. "And how do you do that from U S West's perspective?

A. We use a state specific costing tool that's

in our computer system in Littleton.

Q. And what is this computer? What does it have in it, what type of elements?

A. It has the cost of the material, cost of contracting, cost of labor, everything that would be involved in putting that system in out there.

Q. And how often are those costs components changed or updated?

A. Each time we have a different contractor come to work for us, a placing contractor, those costs are put in state specific.

Q. What was your experience in 1997 with this computer costing tool on how the jobs were done in South Dakota?

A. When we got into it in 1997 from that period on, we have less than 10 percent overruns on our jobs. And that's meaning that we are getting costed almost exactly.

Q. So you have a high degree of confidence in your costing models today?

A. Yes, I have.

Q. When you did -- when you proceed to final detailed engineering costs, that's when you run this cost model?

A. Yes."

Q. Let's turn to, Mr. Evans, the complainants in the Carpenter matter; and I would like just generally to start by would you describe the facilities that currently exist that serve the Carpenter area?

A. It's called the SLC 40 system. There's three remotes, five systems. Each system works off of a DS1 or a T line. And at the remotes it's divided into 40 channels, and the 40 channels are analog, voice grade service to each customer.

Q. You said it was a SLC. How do you spell that for the Court Reporter?

A. S-L-C.

Q. What's that stand for?

A. Subscriber line carrier.

Q. It's a SLC what?

A. 40.

Q. And that's the name of the -- is it a carrier system?

A. Yes.

Q. And how does that, from an engineering standpoint, compare with the system that currently serves Ben Hofer?

A. It was the next step up upgrade from the Anaconda carrier type stuff. It did go to a digital line carrier T-1 that does feed it.

Q. Now, you have before you what's previously been marked as the Exhibit 3, now Exhibit 2, in this proceeding. Do you have that in front of you?

A. Yes.

Q. Now, the facilities that exist to serve the Carpenter area and the complainants, are they marked on this exhibit?

A. Yes, they are.

Q. And are the names of the complainants marked on the map as well?

A. Yes.

Q. And is it the red line that consists of those described as facilities?

A. Yes.

Q. I guess I'm having a difficult time because I don't want the record to reflect what is physically different about the carrier system that serves the Carpenter area versus the Anaconda carrier that you described for Mr. Hofer. What's different? Are there more boxes? What's the difference?

A. Well, the repeater spacing is different.

Q. What's different about it on the SLC 40 versus the Anaconda?

A. The Anaconda is spaced quite a bit further apart because it's not a digital type service that

feeds that remote carrier system.

Q. And you've used that word several times, that phrase digital service. What does that mean relative to telecommunication services? When you hear a digital service, what does that mean?

A. It's a clear channel type service that's put out there, very high speed, whatever you want to call it.

Q. So the repeaters are farther apart on the Anaconda system than they are on the SLC 40 system?

A. Yes.

Q. And you can do more things on the SLC 40 system than you can on the Anaconda?

A. With one T line we can get 40 subscribers on that one T line, which is a four-wire circuit. Four wires to get 40 customers.

Q. How many subscribers are served off of this SLC 40 system?

A. There's 124 in the Carpenter area.

Q. No, is that lines or customers?

A. That is lines. That's working service out of the SLC 40's that are up there.

Q. So if some person -- that is one more than one line, that wouldn't be another customer. There's 124, approximately, lines?

A. There's 124 working lines out of there.

Q. Now, what has been your experience as an engineer with the SLC 40 system and its capabilities?

A. Well, it's got limited capabilities because you do divide the one T line into 40 channels. It does put out 2,400 baud, or 2.4, but the further away you get from the remote itself, you take into consideration the loss of the cable from the remote to the subscriber so that does not -- does knock that 24 or 2.4 down somewhat.

Q. You use the word remote. What do you mean by that?

A. The remote is the cabinet that we get the 40 channels out of once we put the T line into it.

Q. Do you have repeaters on this SLC 40 system as well?

A. Yes, we do.

Q. So you have a remote then meets the signal and the repeaters continue to strengthen it as you described this morning?

A. Yes, it does.

Q. All right. Now, does the SLC 40 system, from an engineering standpoint, allow one to access the Internet?

A. If you do it's very slow. And if you were

closer to the remote, you would be closer to the 2,400 baud, or 2.4, so you might be a little bit faster.

Q. So where is the remote on the red line that you keep talking about?

A. The one that actually feeds the Carpenter area is up there. What is it, a mile and a half south of Carpenter and two miles west.

Q. Where it's got written on there SLC number 40?

A. SLC 40.

Q. So that is where the remote is located for the Carpenter area?

A. That's for, yes, these complainants.

Q. So when you say -- like the person who Regan Glanzer is closer to the remote, so he's got a better chance of having a faster connect to the Internet?

A. Yes.

Q. So the farther you are away from the remote, the slower it's going to be?

A. Yes.

Q. Is that what you're saying? Now, what about ISDN on the SLC 40? Is that capable of being provided on the SLC 40?

A. No, it is not.

Q. What would have to be done on the SLC 40

system to modify it?

A. You can't. They don't have the technology, the cards, to put in a SLC 40 or ISDN.

Q. So the facility would have to be directed from a new facility directed from the Huron central office?

A. Yes.

Q. So ISDN is available out of the Huron office but there would have to be a new facility constructed to provide ISDN?

A. Yes.

Q. So one could get it up in the Carpenter area but it's going to be very expensive?

A. Yes.

Q. Because it would have to be a whole new facility?

A. New span line for the repeaters similar to what we did in the Hofer.

Q. But the technology resides in the Huron central office to do that?

A. Yes.

Q. Now, did you also -- did you do some costing if you were going to replace the SLC 40 system?

A. Yes.

Q. And did you use the same model that you did

in looking at the Ben Hofer costs?

A. Yes.

Q. Now, initially in this docket the answer of U S West reflected that the cost to construct the new facility was approximately 55 thousand; is that correct?

A. Yes.

Q. All right. And how was -- was there any detailed engineering done to support that number?

A. No. That was strictly a look at it from the planning aspect, a broad gauge type.

Q. And you described that, and that broad gauge is essentially what?

A. It's just a blanket cost to what your repeaters would cost, or what your remotes would cost and cabling.

Q. In preparation for this hearing, did you proceed to a full detailed engineering cost to replace the system?

A. Yes.

Q. And what did you do to prepare final and full detailed engineering costs?

A. We went into the design costing tool, pulled all the repeaters out, and redone the dial-up, they call it, to find out the spacing of the repeaters,

found out we couldn't use the repeater system that was there because they're space is 8,000 feet. We need to have them spaced around 5,100 feet. So we cost it out with the costing tool I talked about this morning. The repeaters and the three remotes and cabling that needs to be done at the remotes.

Q. And what did that produce as a cost?

A. 211,000, a little over $211,000.

Q. What drove the cost from 55 to 211?

A. Having to replace 22 repeaters up that span line.

Q. Why would you have to replace 22 repeaters?

A. The spacing on the SLC 40 type carrier was about 8,000 foot apart. So we have to go back to the 5,000, or 5,100 foot apart on the repeaters.

Q. Initially you thought you would not have to replace that repeater system?

A. That's right.

Q. And when you did full detailed engineering you found that you had to?

A. Yes.

Q. What if you didn't replace the repeater system, what would be the effect from that engineering?

A. We would have the loss, the dB loss, between the repeaters too high to run the span line going into

the NEC type terminals to get the 24 channels out of it.

Q. What's that mean?

A. There would be too much loss between the repeaters to boost the power of the cable up in order to reach there.

Q. Basically it wouldn't work?

A. Okay. Thanks.

Q. Is that the bottom line? It wouldn't work because the signal gets weaker?

A. No, it would not work.

Q. Because the signal would get weaker?

A. Get weaker.

Q. I don't want to put words in your mouth. Is that really what the engineering effect is?

A. Yes, that's really why it wouldn't work.

Q. Now, under the current SLC 40 system, is there a capacity to provide the people in the area of Carpenter additional second lines if they want it?

A. Yes, there is in the SLC 40.

Q. What's the capacity in the SLC 40 system to provide second lines to people if they want it?

A. Oh, we have 200 channels up there. Five system at 40 channels a system, and we've got 124 working lines right now, so there would be 70-some

spare channels.

Q. And how many lines are there on each channel?

A. One.

Q. So you would have 70 extra capacity lines, is what you're saying?

A. Yes, on that route to Carpenter.

Q. Now, did you review the trouble history on the SLC 40 system?

A. Yes.

Q. And the trouble history is what for U S West terms? What does that mean when you say you reviewed the trouble history?

A. Each time a case of trouble is phoned in, somebody phoned in work, we monitor that. It goes into a computer system, and it keeps track of how many cases of trouble or trouble history you have on each telephone number out of each channel.

Q. And what was your conclusion reviewing the trouble history in the Carpenter area?

A. On the complainants there was only ten cases of trouble that was related to something other than can't use Caller ID or can't use their computer since we started keeping track of the trouble history.

Q. And how long has that been?

A. '78, '79.

Q. But you were able to find that?

A. Yes.

Q. So compared to the Hofer line, what does that trouble history compare to the Hofer line look like?

A. This is very minor compared to the Anaconda trouble we had on the Hofer line.

Q. Were there any complaints that when trouble was reported, it wasn't satisfactorily taken care of in a prompt, reasonable manner?

A. I never had a complaint of that.

Q. So as I understand what you're saying, if you want to provide to the people in the Carpenter area what they want, it's going to cost, according to your cost model, about $211,000?

A. Yes.

MR. WELK: I have nothing further.

MS. WIEST: Do any of the complainants have any questions of this witness? Galen.

MR. GALEN WALDNER: $211,000 per complainant or per person on the line?

A. No, that's $211,000 is to put -- to replace the SLC 40 system from the Huron central office to the last system out of Carpenter.

MR. WELK: Total cost is what you're saying?

A. Total cost.

MR. WELK: It's not looking at individual customers. It's the total cost of the job.

A. Total cost to take SLC 40 out, place the new digital line carrier called NEC.

MR. WELK: It would be the same thing you suggested earlier this morning on the Hofers?

A. That is exactly the same.

MR. WELK: Does that answer your question?

MR. GALEN WALDNER: I think so. 211,000 for the whole system, not per -- for 124 paying customers.

MR. MIKE MADSEN: You were saying that there was 70 extra lines, or 70 more people that could get a second line?

A. There are 70 spare channels.

MR. MIKE MADSEN: What area are these lines in? Is it available to everybody?

A. Well --

MR. MIKE MADSEN: Or is it in certain parts?

A. I haven't got it broken down. I'll give you the Carpenter area, for instance. Where the SLC 40 sits, going to the Carpenter area, there is 12 spare channels going up there.

MR. MIKE MADSEN: To the Carpenter area?

A. To the Carpenter area. The rest of them are back in the legs. There's three remote sites with five

sets. There's 70 total amongst those three.

MR. MIKE MADSEN: Okay. And then so if the cost of updating the Carpenter area is so high, how do they project the cost of recovering their money when with the economic growth and the moving around of people all the time? If you're saying there's 128 of them up there, what's to say five years from now there might not be 200?

A. I have no forecast of that. And I don't know the policy or how the recovery is of getting our money back. I don't deal in that. But with no forecast -- you know, we have our forecasters, like I mentioned this morning, that go into an area, look at an area, see if there is growth potential there. And they feed that back to us in what is called the Captain System. And in the Carpenter area, in that section up there, we have shown no growth.

MR. MIKE MADSEN: Well, why would a new business want to come into Carpenter if you can't get the stuff we're asking for? I mean most of your businesses now rely on computers. If they're not going to be able to come to Carpenter and get this, why would they want to come?

A. I have no idea, but we do provide good voice grade service up there.

MR. MIKE MADSEN: But not data transmission?

A. Not data transmission.

MR. MIKE MADSEN: I guess that's what my question is then. If the cost of updating is going to be so high that this system -- it doesn't sound like it will ever be updated, what's going to happen ten years from now if the line quality gets so bad that it isn't usable? Then we're just not going to have any phones?

A. No. It will be similar to what we're doing in the Hofer situation. We do know that the trouble rate was up. That justified part of the replacement of that. Plus, the growth, the small amount of growth that the Hofers, themselves, are going to add to that system down there. But their trouble history on that Anaconda carrier is a lot greater than the trouble history on the SLC 40, which the Carpenter folks work off the SLC 40.

MR. SYRING: I have a question too. It was mentioned that you said the amount of trouble history on the Hofer line is much greater than the trouble history on the Carpenter line. Okay, maybe from voice. But from the standpoint of the digital side of it, or from the computer standpoint, or the capability to get Internet, and the number of farmers that are in that area that are going to depend on having Internet,

the number of students that need the Internet in order to get an education, because it's a requirement by some of the school districts now, how does that relate to Mr. Hofer?

Mr. Hofer has one line going in, new one. The farmers here, there's 120-some lines that are available. These gentlemen and women and men will probably have second lines going into their homes using it for Internet or for computers and that.

How does that -- just because it's a trouble, you got a phone call, doesn't make this situation correct. You're trying to provide a service and a competitive service and a competitive edge to some of these people who are business people. Every farmer in here is a businessman. It doesn't matter if there's only two businesses in the town of Carpenter. That has nothing to do with it. Every person in this facility is a business person, as far as I'm concerned, because he's competing in the marketplace. If he has to know price, he has to know product.

And what you're doing right now by saying that is baloney because to me you're taking away from all of these farmers the ability to compete and it's costing them money and a lot of it. So by saying it's a troubleshooting, that you've gotten complaints,

doesn't have anything to do with the situation we're talking about right here. We're talking about being competitive. We're talking about giving our children the same rights as the other people in the school in the Willow Lake. That's what we're talking about.

A. And what I hear testified to is we are providing good voice grade service.

MR. SYRING: We're not talking about voice grade. I said that.

A. I'm here to testify that we are providing good voice grade service to the Carpenter area, to the people that are on the SLC 40 systems. I am not here to make a decision to whether we're going to provide digital service to every farm place out there. That's not my -- that's not --

MR. SYRING: Could I ask a question? How many SLC 40 systems exist in the state of South Dakota?

A. There's two different areas that we do serve on SLC 40. There is four systems working in Hill City, South Dakota, and five systems in Huron.

MR. SYRING: And that's all in the entire state?

A. That's all in the entire state.

MR. SYRING: So that's all if you have today. Now, are all the other systems that you have a

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MR. SYRING: And that's all in the entire state?

A. That's all in the entire state.

MR. SYRING: So that's all if you have today. Now, are all the other systems that you have a

more up-to-date system where you provide both the voice and the digital capability to other customers?

A. No.

MR. SYRING: Or are there worse? There are systems older than the SLC 40?

A. The stuff that Mr. Hofer is working on is older.

MR. SYRING: Is that the only one?

A. No, there is -- can I tell them?

MR. WELK: There are other systems.

MR. SYRING: I mean is there a bunch, or how many systems?

A. Quite a few.

MR. SYRING: How many systems do you have throughout the state of South Dakota?

A. Of Anaconda system?

MR. SYRING: Of any system.

A. 155, I believe it is, of Anaconda.

MS. GRANN: I want to say something.

MS. WIEST: Wait.

MR. WELK: I'm going to object. I know we're not lawyers, but this is a chance to ask questions, not make statements. And I didn't object to the man making a statement, but we have a process, and you'll get a chance at the end. But I think this is the time the

general counsel said if you want to ask questions.

MS. WIEST: Are there any other questions of this witness from the complainants?

MS. GRANN: I'll make it a question because it was his testimony this morning. This morning you said you could justify spending $180,000 because you could see the growth in 26 families. I don't understand how you can see that growth and not see the potential for a growth justify spending 211,000 for 124. I'd like to know how you establish that growth.

A. With the growth that I had from the Hofers, I had orders on hand. The orders were there. We held them because we didn't have the facilities to work. The growth I have up there does not justify spending -- and it's $153,000. The growth I have up there does not justify spending $153,000. What more come into it was the trouble history of his voice grade service, of all their voice grade service. Where theirs is a lot worse, like I said a minute ago, than anything that's on the SLC 40. That justified it more than the growth that I had up there, which is two more lines to Mr. Hofer. That doesn't justify spending $153,000. It does not. Not in your business, not in mine, anywhere. But for the service we need to provide to our customers, it helped justify that $153,000.

MR. SYRING: I have a question. When you upgrade a system, do you only upgrade that system based off of complaints, or because of new technology? Do you go out and upgrade systems just because of new technology?

A. I do not go out and spend the company's money just to upgrade technology, no. It's either has to have the trouble history behind it, we are causing it to cost us more to repair it than to replace it, and if I see enough growth to justify spending that kind of money on the growth.

MR. SYRING: And what do you base your information on for that growth? How do you determine that growth?

A. Like I indicated this morning, we have forecasters that travel the state to look at, visit with contractors, visit with businessmen, visit with city councils, to see how much growth they're anticipating in an area, plus they physically look at these areas. They get feedback from the local technicians that are in the towns, from the local managers. They feed that information into these forecasters, and they try to come up with how many we're going to grow in a community.

MR. SYRING: Are they only basing this on

voice or also data?

A. That's all I'm here for is voice grade service.

MR. SYRING: I'm just asking a question. Do they base that information on voice only, or is it -- do they base it on both, I mean, in the industry?

A. I don't know if they distinguish it by a resident with the data to the voice. They do in the business arena. But I don't know about the regular residents. I don't know how that works.

MR. SYRING: So if you would have a fax line and you have a telephone on that fax line, is that considered voice or considered data?

A. When the fax is on there it's data.

MR. SYRING: When you got a second line into it and you also have a telephone used on that, do they consider that a growth, or consider that a voice or data? I shouldn't say you, because you do the voice. I don't know where you're coming from with that. But if you have two lines in, one on your fax machine, one on your telephone line, yes, that is considered two separate entities or lines into your house.

MR. KEITH GLANZER: Could you tell me what U S West grossed in South Dakota in the last year, your gross income, just to kind of put this in perspective?

A. I have no idea. I'm not privy to that information.

MR. KEITH GLANZER: I've seen figures it's 125 million, so that compared to 200,000 sounds, you know --

A. I have no idea. I honest to God don't.

MS. WIEST: Ms. Cremer.

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. I've got a number of questions, Mr. Evans, so I'll be jumping around. When you talked about the Hofers, there were already orders in hand, how many orders in hand were you talking about?

A. One.

Q. When you looked at replacing a SLC 40, did you look at anything other than the -- what did you say, replacing the 22 repeaters? I mean did you look at other systems?

A. I did the same as I did for the Hofer stuff. I looked at the size core, 24, the light span, anything that I could get backpowering for the more than the 13 repeaters. The only system big enough to handle what's out there and has backpower and capabilities, and that again is putting power from the outside again and back,

is the NEC. And we have to use a T-REC's to get that backpowering shelf in it.

Q. And what would that cost for the Carpenters then, for the Carpenter complaints, to put that in?

A. I would have to replace the whole system, all three remotes, all five systems in order to do it. You can't interact two different computer -- or repeater spans in the same cable, so it would cost 211,000 to do the whole thing, and I'd have to replace all five systems.

Q. Okay. And then if I understood your testimony correctly, what you're telling us is that in order for the Carpenter complainants to get an upgrade, an updating of the system, what they should do every time the line makes a noise, there's double-talk, there's static, it goes out, they should call U S West and report that?

A. No, I didn't say that.

Q. Because I thought you said the trouble reports is what makes the difference here.

A. The trouble reports and the growth is what generates work, what we look at to replace a system that is bad or a section of cable that's bad or whatever.

Q. So they should also call in and be requesting

second lines and whatever else, because the Hofer system had one held order and a lot of trouble reports. So these people need to call in with a lot of trouble reports?

A. If they're honest-to-gosh trouble reports.

Q. And I would believe they would be.

A. So would I.

Q. You heard the testimony earlier, didn't you, about the noise and the double-talk and the static, and you heard all that?

A. Uh-huh.

Q. Do you doubt their word?

A. I don't have to answer that.

MR. WELK: Objection. That is an improper question. He is not testifying as to the veracity of any witness. If you want to ask him some questions about facts that have been reported. That is a totally improper question for an attorney to ask.

MS. CREMER: Oh, please, Mr. Welk, back down.

MR. WELK: Counsel, I move the remarks be stricken. I'm entitled to make an objection.

MS. CREMER: You're absolutely right.

CHAIRMAN BURG: I'll sustain the objection.

Q. You heard their testimony about safety

issues, outages, some related to weather, some they don't know why, convenience and accommodation of the public; is that right?

A. Yes.

Q. Would you agree with me that that is the definition found in 49-31-7.1 for basic service?

MR. WELK: Objection. It calls for a legal question.

MS. CREMER: Okay.

MS. WIEST: Sustained.

Q. The local dedicated line that the elevator wants, would that be a second line or new line?

A. That would be a four-wire circuit, so that would be a main line, or whatever you want to call it.

Q. Is it a second line or new line?

A. It would be a new line.

Q. A new line. Does the Carpenter elevator get that line from anyone else?

A. I have no idea.

Q. Is there a reason why U S West won't furnish them a second line to do that?

A. With what they originally asked for?

Q. Yeah.

A. We would have to take a piece of cable from the Carpenter Elevator to our exchange boundaries, and

that's where they come up with this dollar amount that it would cost them to have us do that.

Q. So would you answer my question?

A. I think so. Did I answer your question?

Q. Yeah. My question was why won't U S West furnish them a second line?

A. We will, and we quoted them excess construction to do that.

Q. The first cost that was quoted to Ms. Grann, not the $50,000 one.

A. That's what I quote. I don't quote any of the other prices.

Q. Okay.

A. I'm in engineering, outside plant. I'm not in the marketing part of it.

Q. When was the last time any updating of the facilities or the ancillary equipment in the Carpenter area was done?

A. Updating of the SLC 40 itself, we have not done any.

Q. Any facilities or ancillary equipment?

A. Since 1976, back as far as we can find the records, we've done 16 various jobs up there. Some of them replacing small pieces of cable that went bad, upgraded a little on the size, and that kind of stuff.

But actually for the electronic systems, we haven't done anything.

Q. Since 1976?

A. Since 1978 when it was installed.

Q. The SLC 40 system you said was used in the Huron area, which would be Carpenter. Is that what we're talking about and Hill City?

A. Yes.

Q. Have you had complaints from the Hill City area on the SLC 40 system?

A. I have not. I have not.

Q. You have not. But you don't know if U S West has?

A. I do not.

Q. Do you know does anybody else in the industry use the SLC 40 system?

A. I do not know that.

Q. You may not be the witness for this. You can just tell me. What are these -- what are the facilities' remaining technical and economic life of the SLC 40?

A. The technical, we don't really know. It has not started to be a bad system yet so we don't know what the life is on the technical side of it because it still furnishes good voice grade service.

Q. That would be -- that's your opinion; right, that that's good voice grade with the static, with the double-talk, with the noise, that you consider that good voice grade service?

A. No.

Q. Okay. And you don't know what the remaining economic life would be?

A. I do not.

Q. Do you know a witness here today that will know that?

A. I don't see any so, no.

Q. Will you have anybody here on economic questions we can ask about depreciation, other complaints, things like that?

MR. WELK: No.

MS. CREMER: Is he going to be your only witness?

MR. WELK: No.

MS. CREMER: Okay.

Q. Having heard the testimony by the Carpenter complainants, what do you think is causing these problems? The slow faxing, the static, all that?

A. We don't have the bandwidth that it takes for the faxing and for the computers. We put out 24 baud rate or kilobytes. Most of your computers are 28.8 or

somewhere in that neighborhood, and it's just slow.

Q. What does that translate into hertz?

A. We provide from 300 to 3,000, in that range, out of the SLC 40 systems.

Q. What causes the static and the noise and the double-talk and the outages that aren't weather-related?

A. Well, it's a possibility that the cables themselves -- I noticed a couple of the cases of trouble there were a drop. One of the drop wires or two of the drop wires were bad going into the houses, rusted off, causing noise or hum on the line. It's just normal plant facilities. I mean it's --

Q. Whose responsibility is that to take care of that?

A. It's the local I and M people.

Q. The who?

A. The local installation and maintenance people.

Q. It's not the customer, the end user?

A. No.

Q. That would be U S West's responsibility to replace that stuff?

A. Yes.

Q. And are they planning on doing that now that

you've seen that?

A. If I have some trouble history of that and can go out and identify that there is a bad section, yes, we will replace that bad section. That's part of the 16 jobs that were done in that area.

Q. Would weather affect these lines?

A. What was the question?

Q. Would weather affect these lines, these phone lines?

A. They should not.

Q. But mice would affect them; right?

A. Yes. Our friendly mice did cause a slow problem, yeah.

Q. Have you done any testing of the lines in the Carpenter area?

A. I personally have not.

Q. Has someone?

A. I do not know.

Q. Would it be procedure or policy when you get these kind of complaints to test the lines?

A. And as most of the complainants had said, when they did have cases of trouble, or they called in that their computer didn't work, the technicians went out, done their readings, and told the people -- told the customers that it was within the bands of what that

SLC 40 would provide. So if there is a case of trouble on it each time the computer didn't work, the customer was told that with the testing that the I and M, or the local technician did, the circuit met what our voice grade standards are.

Q. And your voice grade standards again are what?

A. Just good voice grade service, somewhere between the 300 hertz and 3,000 hertz.

Q. You wouldn't know why the elevator wasn't provided a written estimate for the cost of the line for either of those prices, would you?

A. I would not.

Q. If U S West can provide dial-up -- well, why can't they provide dedicated?

A. We don't have a spare, or I don't think it would go out that far anyway, a spare copper pair. It would have to be a bare, nothing else on it, in order to provide that. And to go 36 miles from the Huron central office up there, I don't think it would work once it would get there without a bunch of pre-provisioning span lines, repeaters, to boost that power to get it up there.

Q. Can you explain that $211,000 cost in detail?

A. In detail?

Q. Yeah.

A. Have you got that much time?

Q. I certainly do.

A. That is to place 22 repeaters from the Huron central office. That is to place three separate RECs type cabinets, T-RECs, C-RECs type cabinets, and the cabling at each one of those cabinets, the repeater housings that we need in the central office to power the repeaters for the first 13 repeaters out and the power shelves in the recollection cabinets that power the 13 spans back, the placing of the repeaters, the splicing of the repeaters, and what we call the cutover.

Q. Do you have a price for each of those things?

A. Yes, we do. That we got from the costing tool that we talked about earlier.

MS. CREMER: Are you going to -- can we put that in as an exhibit?

MR. WELK: No, not without a confidentiality order.

MS. CREMER: That's proprietary?

MR. WELK: Yes, it is. We'll be glad to give it to you provided you sign a confidentiality order and anybody else.

Q. And you arrived at that figure it spit out of

the computer program?

A. Yes, out of the costing tool.

Q. In U S West's answer they say there's no possibility to recover this money. Are you familiar with that?

A. I do not.

Q. What?

A. No.

MS. CREMER: Are you going to put somebody on that can answer questions about that?

MR. WELK: Yes.

Q. Do you know in Huron do customers have the ability to get CLASS services?

A. In Huron city limits?

Q. Yes.

A. Yes.

Q. What about outside of Huron city limits?

A. For a certain distance out, yes.

Q. What kind of system do they have?

A. If we're on plain copper wires, loaded copper pairs, the ones on the Anaconda system, the ones on the SLC 40 system does not have Caller ID. Everybody else should have the capability of Caller ID.

Q. Do you know is it the same monthly rate in Carpenter as it is in Huron cost for local service?

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Q. Do you know is it the same monthly rate in Carpenter as it is in Huron cost for local service?

A. I do not. I am in engineering.

Q. Because the people in Carpenter, those on the Anaconda and the SLC 40, don't have the capability to get Caller ID or the Internet or faxing, is that due to speed? Is that what we're talking; right?

A. Yes.

Q. And is it your testimony that satellite would work with the current landline system in Carpenter?

A. I've never investigated that. I've got some rumblings from here about that, but I've not investigated it. I'm not in wireless, and I'm not in that part of the business.

Q. Do you know anything about the battery system up here in Carpenter?

A. Yes.

Q. And is that connected to the utility or the central office, the battery system? Is that connected to the electric utility?

A. The battery system is to back up when the power goes out.

Q. Is that hooked up with the utility?

A. Yes.

Q. And where is that connection?

A. It's in the remote huts. As you go out, the three remote sites that we talk about.

Q. Are there alarms on those batteries?

A. Yes.

Q. And that's similar to other central offices?

A. Yes.

Q. Do you know what U S West's policy is at the time when the weather caused an outage for checking or replacing the batteries?

A. We always -- we have a routine check of them every year to see what their life span is. And when they do go out, we do send the technicians, again, the local technicians, if they can get there safely, to put on a generator, to recharge the batteries, and to put service back on the lines, when they can safely get to the remotes.

Q. And was that U S West's policy at the time that the weather caused an outage up here?

A. Yes.

Q. And you said they did that every year?

A. They test the batteries every year, an annual test, yes.

Q. And they replace them, I assume, if they're old or --

A. The meter they put on them tells them what part of the life span they're onto, and when they start going down it relays them.

Q. Do you know when the last time the batteries up here were replaced?

A. I do not.

Q. Would weak batteries have anything to do with this weak signal we're hearing about?

A. It would not.

Q. When the complaints such as these that came in grouped together in one area like this, do you know what steps are taken by U S West management to address these problems?

A. Similar to what we did do. We looked at what the facilities were up there. We looked at replacing the facilities, what it would cost us, what the trouble history is, what the service issues were and tried to address them.

Q. And would there have been any records that would show an analysis or a proposal to find a solution to the problems up here in Carpenter? Would there be any records to indicate that by management?

A. For a solution?

Q. Yeah.

A. Other than what I pulled here to look at, what we would need to replace that up there, none that I would have access to.

Q. Do you know who in U S West is in charge of

seeing that the customers in Carpenter get reliable service?

A. Our maintenance, installation maintenance group, here in Huron has a responsibility of keeping the service up, making sure and maintaining service up there and that kind of stuff.

Q. So the buck stops with them, I and M?

A. Yes, if you want to call it buck stops with them. They have the responsibility, if there's trouble on a line, to get it fixed, to get the customer back into service.

Q. Do they have the authority to order or to require new services to be put in here?

A. They don't have the authority to require it, but as they work on lines as theirs are going bad, the trouble history goes in, they identify that to my group. My group takes a look at that particular area, tries to isolate it down to where we replace whatever piece or pieces of our plant is bad.

Q. Okay.

A. They have feedback but not authorization.

Q. In the SLC 40 system, you said that that can handle 40 channels; is that right?

A. Yes.

Q. So how many customers -- and you said there's

124. You can serve another 70?

A. There's 124 working lines in the five systems we have up there.

Q. 124?

A. 124.

Q. Right. Is that okay? So let me -- and you have 70 spare; right?

A. We have the capability of 200 channels. We have five systems, 40 channels a system.

Q. What happens when number 201 wants a line?

A. I wish that would come about. We would have to do something to replace that.

Q. So what happens when number 201 comes on? You'll you have to replace it?

A. We'll have to look at replacement.

Q. Well, but what if 201 is here? You would have to do more than look at it, wouldn't you, or do you just tell them we're the provider of last resort, but until someone dies or moves, you're out of luck?

A. I don't think you would ever find U S West would do that.

Q. I don't think so either.

A. We would look at what it would take to replace them.

Q. To add capacity, which would include what?

A. A number of things. We could maybe add another system of SLC 40. We could do like we did on the Hofer, put in a digital line carrier system like that.

Q. Would you really put in another SLC 40 system?

A. Personal opinion?

Q. Yeah.

A. It's a good system. If I had access to put it in, I probably would. But I don't have access to a full new system.

Q. So even though that was state of the art in 1978 and that's why it was placed, you're saying in 1998 you would use that system in light of all these other 150 ones that are in the state of South Dakota? You would choose SLC 40?

A. No, I wouldn't choose SLC 40.

Q. Could you explain capacity provisioning for rural versus urban areas?

A. Capacity provisioning for rural versus urban? I don't understand.

Q. Is there a difference? Do you do capacity provisioning different for rural versus the urban areas?

A. No. They're all our customers.

Q. Okay.

A. We do put digital line carriers in town. We put them out in the country. We try and maximize our plant facilities.

Q. In the U S West amended answer they state that a new repeater is required. My question is why is it required now and not six months ago when there were these -- and why didn't anybody look at it before that when these complaints first started coming in?

A. Like I indicated this morning, even with the Hofer deal, when we first took a look at it, we looked at it from a planning aspect. We didn't look at the final design or done the dial-ups or any of the final engineering work on it. We looked at it as a planning aspect and done some assumptions, which everybody does, that we could re-use that span line. When we did our -- that's the repeater lines. And when we done our final drawings, or the final engineering on it, doing the dial-ups, and the dial-ups are telling us what loss we have between each repeater, they were spaced too far apart. So we have to replace the whole span line in order to keep it in balance and to keep the power going to that remotes up there.

Q. And there was no way you would know that? Before they started calling and complaining about that,

there's no way U S West would know that?

A. Know?

Q. It was a problem up here before that.

A. No. To my knowledge, it hasn't been a problem other than they can't get on the computer and they don't have Caller ID.

Q. Was the system to Carpenter under-designed when it was installed?

A. Under-designed?

Q. Under-designed.

A. If we installed it in 1978, we still have 70 spare channels. I wouldn't call that under-designing.

Q. Have you ever -- have they ever tested for noise up here on the lines?

A. I personally have not. But like I indicated before, each time a case of trouble is called in, the line is tested to make sure it does meet all the criteria for voice grade plus the noise on it.

Q. Plus the noise?

A. It's all tested.

Q. And how does it test?

A. They test it. It's a called a unit 965, which is a hook on there, which is a testing piece of testier that they hook on there and test for noise and grounds and shorts.

Q. And what are the test results showing for noise?

A. To my knowledge, I didn't know there was noise. On all the trouble tickets I have pulled, there is none on there for noise except for the one that we had the drop that was chewed apart, and that drop was causing the noise and we fixed it. No noise.

Q. What voltage should be found on a telephone loop?

A. 48.

Q. At the NID what should the voltage be?

A. At the NID?

Q. At the N-I-D.

A. Whatever the NID is. I don't have any idea.

Q. Network interface.

A. At the SNI. 48 volts.

MR. WELK: Why don't we --

A. Service network interface is the unit you put on the house where the drop terminates and the inside wires come in.

Q. And that's a "nide"?

A. SNI, S-N-I, service network interface.

Q. And if it's less than 48, what does that mean?

A. Well, you might have a short or something

wrong with the cable pair.

Q. I don't suppose you wouldn't. Oh, but you haven't answered the data request yet so. Let me look here. Oh, where do you get parts for the SLC 40?

A. I get them from KGB enterprises.

Q. Can you explain -- and you have, so I'll strike that. Would you know how many other U S West customers don't have access to Caller ID or other similar CLASS features in South Dakota?

A. I can only go by the people that are on systems that will not allow Caller ID. And there would be 1,052 on the systems that will not accommodate Caller ID, and there's approximately 600 that are 2FR, still in the 2FR arena, which Caller ID will not work on.

Q. That's multi-party, is that 2FR?

A. Yes.

COMMISSIONER NELSON: So that's 1,052 plus 62?

A. Plus 600. It's 1,652 that I know of that are on systems that will not accommodate Caller ID. There might be more that are a long ways out from the central office that the loss is there.

Q. So if you've told me, I'm sorry, you'll have to tell me again. Why isn't Caller ID available on the

SLC 40?

A. It doesn't have the band width to accommodate Caller ID.

Q. What does Caller ID require for bandwidth?

A. 37.7, 37.7 kilobytes.

Q. That doesn't fall between that 300 and 3,000 hertz?

A. That's hertz. You're looking at 2,400 kilobytes for output out of the SLC 40.

Q. Doesn't 2,400 fall between 300 and 3,000?

A. You're talking 300 hertz, which is like we're talking here our voice range compared to byte rates, or data over that same bandwidth. It won't accommodate it because of the bandwidth it needs in order to send that data back to the customer from the central office.

Q. So bottom line, U S West's contention here -- your testimony is you're providing between the 300 and 3,000 hertz. Is that 9,600 bytes? The 9,600 bytes wouldn't fit in that?

A. No. Between the hertz and the bytes, the hertz is a range of voice, range of noise; and the byte rate is the speed that it will accept or translate data or transmissions. How many bytes of information per second that it will allow to be go over that channel or go over that line.

Q. And 300 to 3,000 hertz won't do it?

A. Your hertz is different than your byte rate. I don't know.

Q. I don't either.

MS. CREMER: That's all I have.

MS. WIEST: I think we need to take a break.

(AT THIS TIME A SHORT RECESS WAS TAKEN.)

MS. WIEST: Let's get started. I believe you were at the Commissioners questions of this witness.

COMMISSIONER SCHOENFELDER: Yeah, I do. I have several things I want to talk to you about. But, first of all, Mr. Welk, I do want his cost breakdowns filed. You file them under cover and whatever needs to look at them.

MR. WELK: We have copies here if you want to, Commissioner. We have sufficient copies here.

COMMISSIONER SCHOENFELDER: I don't want to ask questions from them. I want them in the record so I can review them.

MR. WELK: We want to reserve number three as a late-filed exhibit with that confidentiality provision on that on the 211,000, Commissioner.

MS. CREMER: Can I ask a question on these exhibits? You know, this is 3. What's 1? One is the letter?

MS. WIEST: The map.

MS. CREMER: My problem is each of these dockets should have their own exhibits. And I just don't know how you're going to -- and you can leave them all. It just may become a problem with seven dockets having one set of exhibits.

MS. WIEST: I don't think it will be a problem. So Exhibit No. 3 will be the cost study breakdown, and that will be filed as confidential.

MR. WELK: Yes.

MS. WIEST: Is there any objection to that?

MS. CREMER: No.

MS. WIEST: Let's just admit it then.

COMMISSIONER SCHOENFELDER: So I want that, so you're going to admit it into evidence under cover?

MR. WELK: Right. Anybody that wants to see it has to sign a proprietary agreement.

COMMISSIONER SCHOENFELDER: I need to go back. And I don't want to badger you, but very seldom here that I can ask questions like this too. So let's go back to an old thing that they used to tell me all the time that the reason we couldn't have Caller ID in South Dakota and a reason we couldn't have a lot of things we want in South Dakota until your company decided to put them in here was a thing call Signalling

System Seven. And I don't know how that works, if you put it in the switch, if that's where you put it, why it doesn't reach out there okay? And it's the carrier system is why it doesn't reach out there. Am I right?

A. It is the bandwidth that is capable of putting that digital system on for the line to go out there, the system to tell the Caller ID box what the phone number is.

COMMISSIONER SCHOENFELDER: Okay. So Signalling System Seven just doesn't work on this bandwidth on these kinds of wires?

A. That is right, on the SLC 40 or the Anaconda.

COMMISSIONER SCHOENFELDER: Okay. Thank you.

A. Every other person should have the ability to have Caller ID.

COMMISSIONER SCHOENFELDER: Okay. Now, the next thing I want to know, and I asked you this in the Hofer case and I need to know now again. You call it the NEC system that you're putting in the Hofer case, and this is what it would take to replace the SLC 40 system in the Carpenter case?

A. It will take three of them.

COMMISSIONER SCHOENFELDER: It would take three of those?

A. Yes.

COMMISSIONER SCHOENFELDER: Okay. Then is that the only technology that's available in the marketplace, or is that the only technology that U S West uses?

A. That is the only technology that has the backpowering capabilities that is economical to put in up there.

COMMISSIONER SCHOENFELDER: So the answer is there are other technologies out there, but you don't choose to use them because of the economics?

A. Right.

COMMISSIONER SCHOENFELDER: Thank you. Now I need to have --

A. To clarify that, there's only one other system that has the backpowering capability that we need in that area, and that's called the light span. And the light span is normally a fiber fed unit. You can feed it with copper, but the cost of feeding that with copper is twice what it would cost for the NEC for the same type of service.

COMMISSIONER SCHOENFELDER: And in order to use the fiber, you would have to have fiber to the home?

A. You would have to have fiber all the way from

here to each one of the remotes going towards Carpenter.

COMMISSIONER SCHOENFELDER: You wouldn't need it in the last mile though?

A. No.

COMMISSIONER SCHOENFELDER: Then I need to have you file something else for me, and you may not have this but Mr. Welk has available to it. And I want the inspection records for the battery backups in this area. I want them filed, if you could do that, please, so we could see when they were inspected.

MR. WELK: We have them here. We have a couple of the last couple years.

COMMISSIONER SCHOENFELDER: That's fine. I would like to have those in the record.

(EXHIBIT NO. 4 WAS MARKED FOR IDENTIFICATION.)

MS. WIEST: Let the record reflect that Exhibit No. 4 has been admitted.

COMMISSIONER SCHOENFELDER: On the map that you've used in both places this is the existing system now?

A. Yes.

COMMISSIONER SCHOENFELDER: Okay. Can you --

MR. WELK: That's the red line?

COMMISSIONER SCHOENFELDER: Right, yeah. I'm not talking about the Hofer thing. I'm talking about the other. I need to understand some of this stuff. You have something called on there somewhere -- Harlan, help me with it again. Here it is, right down here where it says power something. Can you explain that to me?

A. I cannot because I didn't write that in there. I used a map that was -- maybe somebody had made a note on before. It doesn't, to my knowledge, have anything to do with either the yellow or the red line.

COMMISSIONER SCHOENFELDER: Okay. There's something over here. Did you write that there?

A. Keith Glanzer.

COMMISSIONER SCHOENFELDER: Below that it's something that looks like WR4 and an arrow.

A. I did not write that either.

COMMISSIONER SCHOENFELDER: Okay. Then tell me where those remotes are on this line.

A. The only one that I've indicated on here is for the customer -- or the Carpenter customer, and it's right there where the two lines jog back a little bit where it says SLC 40. Yes, that is the system that all the Carpenter -- everybody that's on the complaints,

except for the Keith Glanzer works out of.

COMMISSIONER SCHOENFELDER: What do all these little boxes mean here then?

A. Little boxes?

COMMISSIONER SCHOENFELDER: Well, that's the best way I can explain it right here.

A. Can I walk up there? These? Them are the load points.

COMMISSIONER SCHOENFELDER: What's a load point?

A. A load point is part of the distribution cable that we put it on there. And to be real simple about it, it takes the twist or the cross talk out of your cable pairs.

COMMISSIONER SCHOENFELDER: Okay.

A. It has nothing --

COMMISSIONER SCHOENFELDER: So there shouldn't be any cross talk on this?

A. That's the principle behind it. That doesn't have anything to do with the SLC 40 part of it. It's the out cable from that, or it's the customer side of that needs to be loaded in.

COMMISSIONER SCHOENFELDER: I'm going to come over here because of the court reporter, not because I'm trying to act like a lawyer. But here's Keith

Glanzer's down here and up here is Mr. Madsen's, over here is Dick Glanzer. They're that far away from this system?

A. Yes.

COMMISSIONER SCHOENFELDER: Do they have less capability than the people?

A. This young man works out of the second system, which I didn't mark it on here but it's down here. All these folks, plus that guy, all work out of this system right here.

MR. WELK: Mr. Evans, the court reporter needs the names. She can't down a moving finger. Just tell the court reporter what you were pointing to for the Commission.

A. A Madsen, Dick Glanzer, Galen Waldner, Regan Glanzer, plus the grain elevator, the Carpenter grain elevator, and Claudia Glanzer all work out of the remote, the last remote going up. These people right here, Keith Glanzer, works out of the second system going up, or second remote going up. And I didn't mark it on there, but it's right in this area here, and he works out of that. Claudia Glanzer, being that close to the SLC 40 system itself, would have more capability there to get on his computer than Madsen clear up nine miles from the remote itself because of the loss in the

distribution or the customer site of that remote.

COMMISSIONER SCHOENFELDER: Okay. If you put the new one in, if you put this NEC or whatever it is you're going to put in, would it follow that line?

A. Exactly. We will put --

COMMISSIONER SCHOENFELDER: Then, okay, if it followed the line exactly, what then would be Keith Glanzer or the Madsen properties, would they still be too far away?

A. No. The new NEC system we'll be able to work anybody within a 900 ohm resistance of that cabinet. That's why on this particular route, not like the one up for Hofer, we have to put three separate cabinets on this run up there because we take and find out what a 900 ohm resistance is around that cabinet and make sure the people were out of each one of those cabinets, and you design them with that specs.

COMMISSIONER SCHOENFELDER: I think I understand it a bit better. Now, I have one other question I want to ask you. You didn't have a lot of reports of trouble up there and noise on the line, that kind of thing, and yet some of the people testified that they had those problems. So is it by our own very nature as rural South Dakotans, because we don't whine a lot, that we're hurting ourselves?

A. I believe there were a couple of the people that testified to that. We just live with it. But when we do go up on a case of trouble, we do test it. We do make sure that it meets all of our specs and there is no noise on it.

COMMISSIONER SCHOENFELDER: And then you talk --

A. But various things can cause noise.

COMMISSIONER SCHOENFELDER: Then you talked about rusty drops. I think that's what you said, they were rusty. I know what a drop is. You said they were rusty or corrosion or something?

A. Yeah.

COMMISSIONER SCHOENFELDER: And it was the company's responsibility. I think that's what you told Miss Cremer in her questioning. You don't have any way to know about that unless there's a problem and someone else calls in and complains. You don't run out there and check those once in a while?

A. No, we do not. We would be running all over.

COMMISSIONER SCHOENFELDER: Thank you. But it seems to me that with well-planned maintenance there should be a periodic check on some of that stuff especially as it gets older.

A. I don't know if anybody would have enough

employee base to go out and check the 297,000 lines we have working in South Dakota on a periodic basis.

COMMISSIONER SCHOENFELDER: You mean you just put them out there and wait until something happens?

A. If you want to put it that way.

COMMISSIONER SCHOENFELDER: That's not the way I run my car. I sort of have to do some maintenance on it.

A. We do with the batteries and all that kind of stuff, we do do routine maintenance, but we don't do it on all the drop facilities we have. We do run tests. It's an automatic test from the Huron office that identifies cable is going bad before it really gets bad. It's called a LIT report, which you wouldn't understand if I could explain.

COMMISSIONER SCHOENFELDER: Probably not.

A. If I could explain, I said. But it does monitor those cables for trouble and does kind of prevent a maintenance type thing.

COMMISSIONER SCHOENFELDER: I think that's all I have.

MS. WIEST: Do you have anything more?

CHAIRMAN BURG: You indicated that you have 124 lines in the -- that you're servicing in that area now; is that correct?

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MS. WIEST: Do you have anything more?

CHAIRMAN BURG: You indicated that you have 124 lines in the -- that you're servicing in that area now; is that correct?

A. 124 working lines in that span going up there.

CHAIRMAN BURG: Do you know how many customers of record you have for that same area?

A. I do not. I just know the working lines.

CHAIRMAN BURG: Is it really U S West's policy or position, then, that if it's too expensive to the company to provide the people of the Carpenter exchange the service they're requesting, then they should not have computer level service?

A. I don't know if I know enough about the company policy on that. I do know that what we are required is voice grade service.

CHAIRMAN BURG: Well, because I understood from the first, from Mr. Hofer's this morning, that you put in a request to upgrade that system. It was approved to upgrade and allow it. Did you put in a request to upgrade this system so computer level service could be provided?

A. I have not. I have not asked for funding, if that's what you're asking.

CHAIRMAN BURG: That's basically what I'm asking. And that's why I'm asking is the policy. And if you don't have outage problems, if you don't have service problems that rise to the level that you have

determined, and that if it's too expensive, then you will not provide computer level service to an area?

A. That is a fact. I do have a limited budget. They're liberal with it, but I do have a limited budget to do what I can do in South Dakota.

CHAIRMAN BURG: Because if you had a metropolitan area or urban area that requested these kinds of services, what's the determinant whether you put one in there then?

A. Most of your urban areas are within the range of the central office and they do work.

CHAIRMAN BURG: But sometime you had to decide to fix that central office up because you felt --

A. That's long before I was in the planning stage of where we set our central offices or how we build our towns around them.

CHAIRMAN BURG: I'm not sure, you probably aren't the one to answer this, but I'm trying to understand how we're going to meet the 1997 Act, so-called the Governor's Act, with that policy, which was to get everybody in South Dakota treated basically the same; that they would have the availability of computer services. But I think that's probably more of a political answer.

A. I can't answer that.

CHAIRMAN BURG: The last one I have is -- and I think you may have partially answered this but I want to ask it again. You said you had to take a new line from the Carpenter Elevator to the exchange boundary to provide them with dedicated line; is that correct?

A. Yes.

CHAIRMAN BURG: Is that the normal way you provide dedicated lines?

A. Well, I don't know what you would call normal. But normally we would take it from our central office to that customer so when a customer would call in, they would go through our central office to wherever it's dedicated to.

CHAIRMAN BURG: But couldn't I purchase -- if I'm in the Carpenter area, evidently not. But if I were in Sioux Falls, couldn't I purchase a dedicated line from there to Minneapolis?

A. From, yes, but it would --

CHAIRMAN BURG: That's farther than from Carpenter to Willow Lake?

A. It would go through our central office.

CHAIRMAN BURG: That's what I was getting at. A normal way would be to go through central office with a copper pair in this case?

A. Yes.

CHAIRMAN BURG: Could be fiber if you had fiber?

A. Yes.

CHAIRMAN BURG: With a copper pair at the central office then you would somehow connect with interstate ITC to provide them that dedicated line?

A. With our cable, yes.

CHAIRMAN BURG: Tell me again why you can't provide it in that method here.

A. They want to run data over it. And with the SLC 40 systems we got up there, all the lines up there, you can't run data over it. That's why they have the automatic dial-up, whatever. That doesn't work very well for them because the system we got up there won't carry the data they want to carry on that line.

CHAIRMAN BURG: But if you did run a separate brand new line as you had said from the Carpenter elevator to the exchange boundary, how would you run data over that line?

A. It would have to be powered from the Willow Lake central office.

CHAIRMAN BURG: So you would--

A. They would have to come from their central office to the exchange boundaries. We would meet

there. They would have to provide the dial tone or the data circuit on that. We would have to match our provisioning of that cable pair to their provisioning in order to make it work.

CHAIRMAN BURG: Normally you could go back through the exchange because you would have adequate power to get data level, what I call bytes, and go through the central exchange and connect with interstate and take it to Willow Lake; and that could be going all over the country before it got there; right?

A. Yes.

CHAIRMAN BURG: But you would have a dedicated path for them. You can't give them a dedicated path from Carpenter to Willow Lake because you can't go back through your exchange? You don't have enough power?

A. That's right. And we would have no way of powering that from our central office going through the SLC 40 system.

CHAIRMAN BURG: And if you powered, but if you went to the exchange boundary, then you could power it out of the Willow Lake?

A. They would have to power it from the Willow Lake area.

CHAIRMAN BURG: Which would basically be a foreign exchange. That's where they got that terminology; is that right?

A. Yes. And when we looked at that, we looked at placing the cable from the Carpenter Elevator to that exchange boundary is where that dollar figure come in, the big dollar figure.

CHAIRMAN BURG: I really am having trouble figuring how we can tell this group of people because the company put in a 20 -- put in a system 20 years ago, it works perfectly fine, so it doesn't need upgraded from that standpoint, but because it's not a system adequate to carry modern technology, you're going to be without. And that evidently is the policy that I am hearing you explain to us; is that correct?

A. I don't know if you would call it policy, but that's what we are required to serve our customers.

CHAIRMAN BURG: Required by whom?

A. Whatever people regulate us.

CHAIRMAN BURG: No, no.

A. It's voice grade service.

CHAIRMAN BURG: You put a lot of systems in like that that we didn't require through regulation. That's the policy of the company the way I see it.

A. That will work for me.

COMMISSIONER NELSON: I have a couple questions, I guess. Earlier in your testimony someone asked you about how you could justify -- and I'm not sure if the number was $152,000 for the -- justify the $152,000 for the Carpenter system or the Hofer system, but not the $211,000 for the Carpenter system. And the answer that I thought I heard you give was that in the Hofer case the $152,000 you had some orders.

A. I had commented that it was hard for me to justify spending $153,000 to go up there to the Hofer ranch. It's hard to justify replacing that stuff up there for that dollar amount for one order or two orders.

COMMISSIONER NELSON: But --

A. Or ten orders.

COMMISSIONER NELSON: But did you do it; right?

A. But with the trouble rate we had, the service issues we had, plus what two ordered growth, or one ordered growth, whatever is up there, helped people understand that we needed to replace that Anaconda system.

COMMISSIONER NELSON: And the growth was based on one held order?

A. That's all it is. It's hard to justify

spending $153,000 for one order. That is not my decision to make.

COMMISSIONER NELSON: I understand. But you did say that you could do it because you had one held order and it was part of the growth and you had the Hofer people who made the request. Why is that different than the Willow Lake Elevator being considered a held order and one request?

A. I can give the Carpenter Elevator another line off the SLC 40. I couldn't give the Hofers another line off the Anaconda carrier. It was upgraded.

COMMISSIONER NELSON: However, giving even Mr. Hofer only one line didn't really improve anything that he wanted to do because he also wanted Internet access, he also wanted data transmission at faster rates and speeds than he had before. Now, you can provide, I understood you say today, the Carpenter people with an additional line?

A. Right.

COMMISSIONER NELSON: But although they could have an additional line, they're not better off because they still can't have any of the services like the Internet, Caller ID, and those kinds of things that we're going to be able to provide for Mr. Hofer. Or

even if you could have provided Mr. Hofer with another line, if you were to only provide him a line, then he would have been no better served than the people in Carpenter. Is that not true?

A. That is true, if I could.

COMMISSIONER NELSON: Why isn't it relevant to this case? Because you just said that we could -- you were justifying the Hofer expenditure based on one held order because that represented growth and demand for services.

A. I think you heard me say I had a heck of a time justifying that. But the only two issues that come into it was the trouble history, the cost that it cost us to have our maintenance people maintain that system. It cost us more to maintain it than it is to replace it. It's still hard to justify spending that kind of money for one order or for one small group of customers, but when it starts costing you more to maintain it than it is to replace it, that helps justify the expenditures that we'll do up there.

COMMISSIONER NELSON: Would you agree that the only difference between the Carpenter and Hofer cases are -- the only difference is that the Hofer people seem to complain more than the Carpenter people and so, therefore, you have a longer history of t ouble

than you did than the Hofer people -- or the Carpenter people?

A. I can't answer that.

COMMISSIONER NELSON: Why not?

A. Because.

COMMISSIONER NELSON: It seems like a simple question to me. You said there were these certain criteria that you use to make your decision. One of those was the growth thing. And you were saying that one order apparently represented a growth in your mind. The other was that you had a trouble history. And maybe there were others. But it seems to me that except for the trouble history, the Hofer and the Carpenter situation is the same.

A. I can still repair a SLC 40. I can't repair Anaconda carrier. It's the vintage before the SLC 40. So it costs us more in maintenance, more in trying to make it work, that that helped justify spending the $153,000.

COMMISSIONER NELSON: Okay. And let's talk about this trouble repair stuff or troubling history. If people complain about noise, screeching, double voices on the line, those kinds of things for voice grade communication out there and you sent somebody out to test that and they say -- or if they wanted data

transmission and they find that they didn't really -- that you were meeting the voice grade standard, would that be recorded as a one trouble history?

A. That would be reported as no trouble found.

COMMISSIONER NELSON: Because you were providing --

A. If you don't find any trouble on it, you can't mark it down as a case of trouble. It's recorded if a subscriber customer called in. But if you don't find any trouble on it, you do your tests, it meets all the criteria we need, it's written as no trouble found.

COMMISSIONER NELSON: If is it written that way because it meets the standard voice grade standard?

A. Yes.

COMMISSIONER NELSON: Not necessarily because you didn't find any screeching or humming or anything on there?

A. If you don't find any trouble, you write it down as no trouble found. That's not part of the --

COMMISSIONER NELSON: How do you find trouble?

A. When you actually go out there and pick up the phone, there is noise, there is ground, there is something wrong with the line. If a customer called in every day and say says, "Hey, my phone don't work," we

send a technician out there. And if he doesn't find anything wrong with it, it goes down as no trouble found. When I review that trouble history, I can pick all those out and they're not counted as trouble history because there was no trouble on the line.

COMMISSIONER NELSON: If it were weather-related, intermittent, and if the wind and rain and those kind of things affected it, it is possible there could have been trouble there; right? You might not know?

A. In rare occasions, yes.

COMMISSIONER NELSON: In rare occasions?

A. Yes.

COMMISSIONER NELSON: How would you decide when it was a rare occasion or not?

A. Well, if it would continue to come back and forth and we wouldn't get it, we would probably investigate it until we did find what the trouble was if there was really trouble on it.

COMMISSIONER NELSON: Are you familiar with your investment plan in South Dakota?

A. I am not.

COMMISSIONER NELSON: Is it true that -- in the Hofer case, all the people in this room today -- or the people who complained today would be able to get a

second line if they want one?

A. We have enough channels available in the SLC 40 to do that. I do not know about the facilities from our cable terminals into their houses, if they have one pair in there. It's just like the Hofers. They would be billed to beef that part of the facility up. At today's records, we do have enough facilities in the channels of the SLC 40 and in the copper cable that is laying in all them ditches up there.

COMMISSIONER NELSON: Well, you can say what you want, but I want you to answer the question that I think I asked, which is I want to know in my language if every person that filed a complaint here today is you are going to say that they can get a second one?

A. Yes.

COMMISSIONER NELSON: They absolutely can if they wanted one?

A. We have enough spare facilities up there today as we speak that they could each get another line.

COMMISSIONER NELSON: And those facilities that are there, are you aware where all these people live so they could indeed get them?

A. In today's investigation, yes.

COMMISSIONER NELSON: What do you mean by in

today's investigation?

A. There is enough spare facilities in the distribution up there for all of them to have another line.

COMMISSIONER NELSON: Although even --

A. That complaint in here today.

COMMISSIONER NELSON: But even if they had another line, they couldn't have -- they wouldn't be able to do anything but voice grade communication; right?

A. It would be no different than the line they have today.

COMMISSIONER NELSON: Do you believe that the voice grade communication provided to the people in Carpenter and who filed complaints today is comparable to the voice grade communication in, let's say, Huron?

A. Yes.

COMMISSIONER NELSON: You can truthfully say you believe that after listening to people here today that some who lived there 44 years and said they just kind of not used?

A. You asked for my opinion. My opinion is yes.

COMMISSIONER NELSON: I guess we differ on that. And I -- just so it's clear, why would they have all this screeching and double-talk?

A. I have no idea.

COMMISSIONER NELSON: No idea?

A. I have not heard of a SLC 40 having the screech in it. I've heard of the Anaconda carrier having a squeal in it, but I have not heard of the SLC 40 having a squeal.

COMMISSIONER NELSON: Since we heard about it from the people in Willow Lake, they have the SLC 40; right?

A. Yes, and Carpenter not Willow Lake.

COMMISSIONER NELSON: But it's in Carpenter. Okay. Well, isn't -- didn't Crystal Grann talk about the -- okay, the Carpenter Elevator, they're on the SLC 40, is that not true?

A. Yes.

COMMISSIONER NELSON: If they have this problem on the SLC 40, what might be the cause of the problem?

A. I would have to have the I and M people, or the installation and maintenance people, do some tests. I have no idea how it can squeal on a digital line that serves that SLC 40.

COMMISSIONER NELSON: How about the double voice?

A. The double voice could come from if there was

a moisture in the cable somewhere in the outside or the customer side of the SLC 40 they would get maybe some cross talk. If snow would blow in the terminal or something that would cause that.

COMMISSIONER NELSON: One of the things you said you were going to do when you improve the situation in the Hofer case was to have -- you have better like to keep the mice out, the weather and the elements out. Is the system that you're going to provide when you do that upgrade in Hofer different than the situation that's going to exist with the SLC 40's?

A. Yes. It's a different cabinet, different type of cabinet, brand new, sealed better, not been out in the weather, probably take years to ever deteriorate down to where there would be gaps in it or a way for a mouse to get in. And we do put chemical -- not chemicals, compound in our terminals to prevent the mice from coming in.

COMMISSIONER NELSON: Do you know the condition of the SLC 40 systems in the Carpenter area?

A. Do I know the condition of them? By physically looking at them or by trouble history?

COMMISSIONER NELSON: By looking at them and by trouble history, I guess.

A. By looking at them, they look like they're in good shape yet. We were up there yesterday. The cabinets are sitting there nice and straight. Need a little paint job, but other than that, they look pretty good.

COMMISSIONER NELSON: I think that's it.

CHAIRMAN BURG: I just have one more. Is it true have you got a policy of trying to replace all the Anaconda's over a period of time more so than the SLC 40's?

A. Not a written policy. I replace Anaconda carrier every chance I get.

CHAIRMAN BURG: That's what I was going to say, because you have can't get repairs as well?

A. That's right. The cost of maintenance is too high.

CHAIRMAN BURG: They're just a poor system?

A. And if you look at the Aberdeen area, the last year the work we done in Aberdeen, we done that work to get rid of the Anaconda carrier because it was starting to cause us as many problems it was causing the customers. Every chance I get. And I don't have the data with me now, but I believe the number was 35 systems of Anaconda carrier that we eliminated last year through different growth programs, upgrades in

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areas. And we do concentrate on trying to get rid of all of them. Nothing would make me happier than to get rid of all of them.

CHAIRMAN BURG: That's all I have.

MS. WIEST: Any redirect?

MR. WELK: No.

MS. WIEST: Thank you. Do you have any?

MS. CREMER: I had a couple questions.

RECROSS-EXAMINATION

BY MS. CREMER:

Q. What's the symbol for the SLC 40?

A. I have no idea.

Q. Since it's only three miles from the current Anaconda line over to where the Carpenter SLC 40 starts, how hard would it be to serve the people from Carpenter with that new T-REC that you're putting in?

A. First of all, it would be outside the 900 ohm circle that we're having around the Hofer area to feed that. Plus, it is a completely different route that goes up to Carpenter. It happens to be just at one spot a mile apart. To try and turn all that into the two routes into one with your span lines being in there, I don't believe it would work very well. And my planners look at stuff like that. I mean it's any way to make the service better to save our company money.

But with the two different routes, the two different types of cable going up there, and the 900 ohm circle, it didn't work. That's part of the comments they asked me earlier about the 55,000 now, why 211,000. If you would just pick this up as a planner and say I can combine them two into one repeater, so all I need to do is price out three terminals and give the answer. But when you do the dial-ups, when you do the loss readings and all that stuff, it wasn't possible to combine the two routes.

Q. Did you check all the SLC 40's yesterday, physically check them?

A. No, not all of them.

Q. How many?

A. We went to the remote that is fed out of the Carpenter area.

Q. The one that's marked on the map?

A. The one marked on the map.

Q. When was that? What time of day was that?

A. As a matter of fact, it was twice. Somewhere around 1 o'clock the I and M manager and I went up, installation and maintenance manager went up, and later in the afternoon somewhere around 4:00, 4:30, Jon Lehner, Mr. Welk, and Colleen and I drove up there.

Q. You had to walk through the snow too?

A. No. The snow was gone late in the afternoon. We even got to turn around.

MS. CREMER: That's all I have.

MS. WIEST: Any other questions?

MR. SYRING: Could I ask a question? You talked about the repair cost associated with Hofer's versus Carpenter's. Can you tell me what the money is you spent on the repair for Carpenter versus Hofer?

A. No, I cannot. That's a report that I didn't bring with me. I have got that information in Denver that I can pull up, but I don't have it personally, no.

MS. WIEST: Any other questions? Thank you. (Witness excused.) Do you have another witness, Mr. Welk?

MR. WELK: Yes. Colleen Sevold.

COLLEEN SEVOLD,

called as a witness, being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. WELK:

Q. Would you please state your name?

A. My name is Colleen Sevold.

Q. And where do you live?

A. I live in Sioux Falls, South Dakota.

Q. By whom are you employed?

A. U S West Communications.

Q. And what is your position?

A. I'm regulatory affairs. I'm the manager of the regulatory affairs.

Q. What are your duties and responsibilities of manager of regulatory affairs?

A. As manager of regulatory affairs I work with filing the tariffs before the Commission, I witness at Commission hearings, I work on customer complaints occasionally.

Q. How long have you been employed by U S West?

A. About 18 and a half years.

Q. In regard to the complaints that were made from the Carpenter area, after the complaints were filed, did you call a number of the complainants personally by telephone to discuss their complaints?

A. Yes, I did. I have personally visited with all of the complainants.

Q. Who specifically did you visit with?

A. Actually in the time frame between March 2nd, 3rd and 4th, I called all of the complainants, with the exception of the Willow Lake Elevator, which I had talked to them on a prior occasion, and then I've talked to them just a few days ago. I called each one of the customers, and I either talked to the customer

who had signed the complaint or their spouse.

Q. And what questions did you ask?

A. I first identified myself. I said that I was calling regarding the complaint that they had filed with the Commission and I would just like to take a few minutes of their time to visit with them about their complaint and about their phone service.

Q. And did you ask them any other questions about their complaint?

A. Yes, I did. After they acknowledged that they had a few minutes to visit with me, and they were all very cordial about visiting with me, I asked them specifically, "I would like you to tell me about your voice line. I would like to know the problems you're having on your voice line." Every single one of the customers told me their voice line was working just fine.

Q. So all of the complaints that were heard today about the screeching and the static on the line, there was none of those that were voiced to you during your telephone conversations in early March?

A. Not a single one. Maybe two of them told me about the outage that happened, which we've heard about earlier today. But, in fact, I would say, "Any static? You know, the reason I'm asking, do you have

any static? Do you have any noise? Do you have problems like that?" And I did not hear one of them say they did.

Q. Did you review the trouble history also on these lines?

A. I reviewed the trouble history for the last two years.

Q. And the review of that, other than the complaints about getting computers, Caller ID, data access, can you tell us what the records of the company reveal about the trouble histories of the people?

A. Yes. I could either go down each one of them, or I could just generalize that. With the exception of the Caller ID, a couple of them called no dial tone, but they called right back and said cancel because it's working. And a lot of times what happens is they've had an extension off hook or something like that and they've discovered that. And a couple of times there was a cut drop, and we went out and repaired that.

Q. Give me the names of the ones with the cut drops.

A. Sure, if you give me a minute here. We have one, Michael Madsen on August 28th, 1997. Out of service wire cut in driveway due to Spink County

cutting it. We have another one for Keith Glanzer, November '96, repaired drop. We do have one case on Keith Glanzer, October 1997, no dial tone; and that was due to a U S West repairman that had been working on the system. Other than that, I cannot see anything on here. And we did have, as Regan Glanzer said, in November of '96, no dial tone, and we found mice in the terminal.

Q. So were there any complaints about static that were on the line that were on the trouble lists in the last two years?

A. There was not.

Q. Or a screeching?

A. There is not.

Q. What are the local residential rates that are paid by the people from Carpenter?

A. The residential rate is $16.55.

Q. What is the local business rate that's paid?

A. $32.45.

Q. What does U S West charge for Caller ID?

A. $5.95 for name and number.

Q. Per month?

A. Per month.

Q. From your prior involvements with the dockets, has there been a number that has been agreed

on between the staff and U S West as to the cost to provide service in South Dakota?

A. Yes. I believe in the what we refer to as the 121 price regulation docket, the cost, the average statewide cost to provide service was somewhere around $21.00.

Q. That's an average statewide cost?

A. That's correct.

Q. That includes the people in Sioux Falls, the rural areas and everyone?

A. That is correct.

MR. WELK: I have nothing further.

MS. WIEST: Do the complainants have any questions of this witness?

MR. SYRING: I just have one. Can you tell me what the rate is in Huron for a residential?

A. $16.55.

MR. SYRING: It's the same?

A. Yes.

MR. SYRING: And that resident in Huron can have voice as well data communications? They could have Internet to access?

A. Depending on how close they're located to the central office.

MR. SYRING: Anywhere in Huron, the city of

Huron?

A. If they're close enough to the central office they probably could, yes.

MR. SYRING: Have you had any complaints from Huron stating the fact that they cannot get the Internet access living in the city here?

A. Not that I'm aware of. But I would not -- I do not get the trouble history on them.

MR. MIKE MADSEN: I have a question. Is the $21.00 average statewide, is that business and residential combined too?

A. That is residential service.

MR. MIKE MADSEN: Just residential? Okay.

MS. WIEST: Any other questions from the complainants? Ms. Cremer.

MS. CREMER: Thank you.

CROSS-EXAMINATION

BY MS. CREMER:

Q. What are the facilities' remaining economic life?

A. I cannot answer that question.

Q. Will there be someone from U S West that can answer that question?

A. I believe we stated that there will not be.

Q. I thought you said there will be.

A. There will not be.

Q. Do you know why the elevator was never provided with a written estimate for the cost of either price that was quoted to them?

A. No, I do not.

Q. And is that typical of U S West not to provide a written estimate when they've been requested of one from a customer?

A. I guess I wouldn't have any basis to answer that. Those would come out of the business office. I would have no reason to know why they wouldn't.

Q. Do you know why the price quote varied so much?

A. No, I don't. I imagine, I think, as I understand it, they were talking about several different types of services and several different possibilities.

Q. Did you ever call when this complaint came in and as you were preparing for the hearing, did you ever call the service rep department and ask them why no written confirmation was sent?

A. No, I didn't. I believe that I did talk to the engineer about the problem of getting the facilities to them.

Q. Yeah, but I'm talking about the written

confirmation.

A. No, I did not.

Q. Why not? Why didn't you call and ask someone why wasn't this followed up on?

A. As I understand it, and as I understand the complaint, they were told that it would need to be forwarded to engineering for their review. And it's my understanding that engineering did come back to them and quote them a charge that it would cost to get them that service.

Q. They quoted them a price, but they never sent them anything in writing?

A. I'm not sure. I know they were quoted approximately $50,000. I'm not sure if that was in writing or verbally.

Q. In U S West's answer they said there's no possibility to recover this money, this $211,000 to be spent in Carpenter. Do you recall that?

A. Yes, I do.

Q. That didn't include, however, toll, CLASS, all the other services, second lines, Internet, that the Carpenter residents made by U S West, did it?

A. Well, the second lines we can provide to them today on the facilities that are there today.

Q. But you didn't figure that cost in when you

did your multiplication here and came up with $1,400? None of those revenues were figured in, were they?

A. What I would look at is incremental revenue that we cannot get today on this system that the new system would provide. And today they can have additional lines.

Q. Okay. I'm obviously not asking the question right. U S West came up with a bottom line figure in their answer that said $1,400 is all the residents of Carpenter will provide to us versus a 211 dollar cost; is that right?

A. That is correct.

Q. Okay. That didn't include toll?

A. That did not include toll.

Q. And it didn't include CLASS. If you were to update these services, update the facilities, there would probably be additional toll, CLASS, all those other services, Internet, they might possibly buy from you; isn't that correct?

A. What I believe our response said is the revenue that we get today.

Q. I don't suppose you know anything about the satellite system, do you, that U S West put in their answer would be a viable alternative?

A. It is my understanding that that information

came from Steve Wegman after he had been to some type of an industry forum or something, and he gave that information to Jon Lehner and talked about how that was going to be the possibility. And so that is where the answer came from.

Q. So U S West's answer is based on Steve Wegman?

A. A conversation Steve Wegman had with Jon Lehner.

Q. So you don't know anything about this if I were to ask you any other questions on this satellite alternative?

A. That's correct.

Q. What's the percentage of U S West customers in South Dakota that have Caller ID?

A. I would say that we have probably running 20 to 25 percent.

Q. Do you know is that high, low, or average in U S West territory?

A. I would only be guessing. I would say about average, but I'm only guessing.

Q. I'm trying to figure out the point of your testimony regarding your conversations with the people in Carpenter in their testimony today. What was the point of your testimony?

A. The point of my testimony was I made a call to each one of these individuals just for that reason. I wanted to know of any problems they were having with their voice grade line because I felt that I needed to know that. I had reviewed their repair history. There was nothing there. I wanted to know any problems. And they all said -- in fact, I documented the calls as I was making them. And some of them said, in fact, it works great.

Q. So when you documented, did you tape them?

A. No. I wrote them as I was talking.

Q. So if they didn't tell you yesterday that they -- or whatever day it was, two days ago, that they had static and double-talk and all this and that they get this call out of the blue from U S West and they didn't tell you suddenly none of those problems really existed? Is that the point of your testimony?

MR. WELK: Objection. It's argumentative.

MS. CREMER: What part?

MR. WELK: Your whole question is argumentative.

Q. Okay. I'll try again. The point of your testimony regarding what you talked to them about is what?

A. I wanted to know, and I asked them all to

tell me about any static and complaints, any problems they were having with their voice grade service because that was the purpose of my call. And none of them told me anything, and I gave them plenty of opportunity. In fact, I asked them to please tell me. And so the purpose of me saying that is that is what all of the customers have told me.

Q. Okay. So that being the first half of the story, what's the second half? So what's the point of your testimony?

A. That they all told me that their voice line service is working very fine.

Q. What are we to infer from that?

MR. WELK: I'm going to object. It's argumentative. You can make whatever point you want. She's just testifying as to the facts, Counsel. The inference, I can draw and you can draw and the Commission.

Q. What is your inference from that?

A. I would believe that if they told me they were having no problems, then I would believe they were having no problems because that is what they told me.

MS. CREMER: Okay. I think that's all the questions I have.

MS. WIEST: Commissioners?

COMMISSIONER NELSON: I have a couple. Colleen, do you know anything about your investment plan in South Dakota?

A. Yes, I'm familiar with it.

COMMISSIONER NELSON: In your investment plan, as I think back in my mind, and we went back to the quality of service docket, at that point -- and I'm sure, if I'm not accurate, you can correct me. I thought that in that investment plan you testified -- your company testified to the fact that by the first quarter of 1996 or '97, that -- the last quarter of 1997, that you were going to have Caller ID available to all people in South Dakota. And that, in fact, you had made that commitment and you had it completed prior to that in 1996 instead of 1997?

A. I believe -- this is what I remember. I believe that we said that we would have Caller ID available in all of our central offices. But when we actually introduced Caller ID service to the Commission, which was probably back in 1995, I believe I recall in the filing we said where technically available and feasible. But we did commit that we would have Caller ID in all of our central offices, which we do have.

COMMISSIONER NELSON: Are you telling us here

today that when you are asked the question about whether or not Caller ID was going to be available in your investment plan, that it meant that it was available only in that it means only in your central office? If it's available -- well, I may be reaching the wrong conclusion. Because the conclusion I'm reaching is if you're saying -- I mean, I think it's if you don't ask the right question, you don't get the right answer. So when the question was asked when would it be available? Your investment plan says it will be available to everybody. I don't recall seeing an investment plan that said only in your central office. But do I stand corrected there?

A. I'm not sure what our investment plan -- I can't tell you without looking at it today. But I do recall that when we filed the introduction of Caller ID, I do believe I recall that we said where technically possible.

MS. CREMER: If I could interrupt. I have that investment plan, and you could look at it.

COMMISSIONER NELSON: Would you agree if it's available only in your central office, it does people no good if they can't use it? So you could -- I mean it's there, but if nobody can make use the service, it's not of any use; right?

A. Well, if it's technically not available, that's correct, they wouldn't be able to get it. If it does not work where they are located, then it wouldn't be able to. But it is available in the central office, so the vast majority of our customers would have it. But if there's a technical limitation, they would not have it.

COMMISSIONER NELSON: I guess that I'm somewhat misled. I feel misled here. Because when someone asked me about if Caller ID is available, having it available in the central office, if it's no good to anybody except the central office, of what value do you see that it is?

A. The only thing I can say is that it is available to the vast majority of our customers. Yes, there may be some where technically it's not available. So I guess in answer to your question what value is it, it is available to almost all of our customers, so I would say it has significant value.

COMMISSIONER NELSON: Would you -- could you put the investment plan as Exhibit 5?

MS. WIEST: Can we mark that Exhibit 5?

(EXHIBIT NO. 5 WAS MARKED FOR IDENTIFICATION.)

CHAIRMAN BURG: The only comment I would

make, it doesn't necessarily have to be that copy. If U S West's investment plan would be filed as a late-filed exhibit, that's adequate.

MR. WELK: I just asked him to review it. He knows it, I don't.

MS. WIEST: Is there any objection to admitting the investment plan as Exhibit 5? If not, it's admitted.

COMMISSIONER NELSON: Now that you reviewed it, Colleen, could you tell me whether or not it said only if it was available in the central office?

A. To me it says --

COMMISSIONER NELSON: What does it actually, literally say?

A. This plan provides for the expansion of CLASS to all remaining U S West exchanges, not customer's exchanges, which to me would be the central office. It is available to all U S West exchanges.

COMMISSIONER NELSON: Would you agree that the facts today, if things are testified to under oath, speak for themselves?

A. I'm not sure I understand the question.

COMMISSIONER NELSON: Well, if it's -- if people testified today, would you agree that that's probably a fact?

MR. WELK: Objection.

A. I can't answer that.

COMMISSIONER NELSON: Well, I guess that Colleen testified that when prior to today's meeting she talked to the people who are complainants here today and they indicated that they didn't have any problem with voice grade communication. However, today under oath, quite a few of those testified that they had. Would you agree that the facts speak for themselves?

A. To me, the only facts I have are that I personally visited with each one of them. And I would be glad to visit with them again if they care to. And also I have reviewed their repair history, and there are no facts there to say they have noise at all or other, you know, static.

COMMISSIONER NELSON: Would you agree sometimes people talk about the biggest problem and sometimes they're willing to overlook the other problems and that does not necessarily mean that there aren't other problems?

A. Well, actually, just to show you a comment, I asked him specifically about his voice line service. I'm reading my notes. He indicated that it was just fine.

COMMISSIONER NELSON: My question wasn't that.

A. So they did.

COMMISSIONER NELSON: Would you agree that sometimes when people have a whole bunch of problems, sometimes they only dwell on -- or might mention the biggest problem that they have and they might have overlooked some other things, but that would not necessarily mean that they were not a problem? So would you agree that that might be true?

A. I can only say that I specifically asked, and every one of them told me their voice grade was fine.

COMMISSIONER NELSON: Are you saying, then, that even though these people testified under oath that voice grade communication is also a problem, that they didn't tell the truth?

A. I cannot answer that. I can only tell you what I know from my conversations.

COMMISSIONER NELSON: So then I would say for the record that the facts speak for themselves. The people testified under oath today that voice grade communication is a problem. Do you have a problem with that?

MR. WELK: I'm going to object to the question. Respectfully, Commissioner, what you choose

to believe is what you choose to believe. All we can testify is about the facts. I'm sorry, I object to your question. It's inappropriate. You draw whatever conclusions you want, but the witness does not legally have to make those inferences.

COMMISSIONER NELSON: She doesn't have to make those inferences, but when she said they told her yesterday that they told her there wasn't a problem and today under oath the record will reflect that they said there was a problem, that says to me that we're inferring that somebody lied.

MR. WELK: Nobody is making that inference. This happens in court all the time. You can choose to believe whatever you want.

MS. WIEST: It's up to the Commissioners to judge the credibility of the witnesses.

COMMISSIONER NELSON: I'll let that go. Would you agree that maybe because there were other more serious problems as people saw them, that perhaps they overlooked mentioning to you possibly that voice grade communications might be a problem?

A. The purpose of my call was to ask them about their voice grade line, not their other problems, just about the voice grade line.

COMMISSIONER NELSON: Okay. I think that's

all.

CHAIRMAN BURG: A couple real quick ones. You gave us the rate, both the business and the residential rate in the Carpenter area?

A. Yes.

CHAIRMAN BURG: And what is -- is there a separate farm rate? Or which rate do farmers fall under?

A. No, they pay the 16.55.

CHAIRMAN BURG: They pay the residential?

A. Residential.

CHAIRMAN BURG: We used to have an agri business rate, but that was eliminated in the past?

A. That's been gone quite a long time.

CHAIRMAN BURG: What does second lines cost?

A. They would pay the same, $16.55.

CHAIRMAN BURG: That's all I have.

COMMISSIONER SCHOENFELDER: Colleen, I have one, and probably because you testified to it and I missed it. But did you say you made those calls yesterday?

A. No. I said I made them between beginring Monday, March 2nd, Tuesday, and then I believe there were a couple customers that I still hadn't contacted or that wanted to call me back and called me back on

Wednesday. That's March 2nd, 3rd and 4th.

COMMISSIONER SCHOENFELDER: Okay. Then I misunderstood. I thought someone said yesterday.

COMMISSIONER NELSON: I said it. She said Wednesday.

MS. WIEST: Any other questions from the Commissioners? Any redirect?

MR. WELK: Nothing.

MR. SYRING: I have a question. Do you provide handicapped telephone systems to let's say in town to the blind? Do you have special phone systems to allow blind people to have a telephone?

A. I believe that we provide directory assistance allowances for people.

MR. SYRING: But, okay, let's say they have no voice, okay? They can't actually talk on the phone. Do you provide any kind of digital system or any kind of a system for those people?

A. U S West does not.

MR. SYRING: So if you're deaf and dumb, you're out of luck? You don't get a phone?

A. I believe there is a state fund that can help those people.

MR. SYRING: But it isn't provided by U S West?

A. No.

MS. CREMER: That's prompts a question. Would the TDDY work in Carpenter?

A. I don't think I could answer that question.

MS. CREMER: Was there anybody here who could? Would, Mr. Evans, do you know?

MR. EVANS: What is it?

MS. CREMER: Do you know would the TDDY -- do you know what that is?

A. I do not.

MS. CREMER: The hearing impaired.

MR. BEST: Telecommunications device for the deaf.

MR. EVANS: I don't know, I'm sorry.

MS. CREMER: You don't know if that would work for the SLC system?

MR. EVANS: I do not.

MR. WELK: I think, Mr. Evans, can you check the engineering designs on that and report back?

MR. EVANS: Yes.

COMMISSIONER NELSON: That prompted another question, too, when Karen is done. You said there was no way to recover the cost of this?

A. (By Ms. Sevold) Yes, that's correct.

COMMISSIONER NELSON: Isn't it true that you

could come with a rate case which would possibly allow you to recover those costs?

A. We are regulated today under price regulation so we are not rate of return regulated today.

COMMISSIONER NELSON: So are you saying you never have to come to us for a rate case?

A. I'm saying under the current law today we are price regulated with price caps.

COMMISSIONER NELSON: Even under price caps, my understanding is we're required to allow you to recover your costs.

A. For residential service today we are not recovering our cost.

COMMISSIONER NELSON: Well, at least you're not recovering through rates.

MS. WIEST: Just to clear up one thing for the record though. That $21.00 that you mention is the cost of service that was based on rate of return regulation, not price regulation, was it not?

A. It was my understanding it was part of the 121 price regulation docket.

MS. WIEST: But the number itself, the 21 something, was based on rate of return regulation, not on price regulation standards?

A. I don't think I can answer that question.

MR. WELK: Mr. Lehner can answer that.

MR. LEHNER: I'm under oath. The answer to that is yes.

MS. WIEST: Thank you. Any more questions from this witness? Thank you. (Witness excused.) Do you have any other witnesses, Mr. Welk?

MR. WELK: No.

MS. WIEST: Miss Cremer, do you have any witnesses?

MS. CREMER: Yes. I would call Bob Syring.

BOB SYRING,

called as a witness, being previously sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CREMER:

Q. Could you state your name and spell it, please?

A. Yeah, Bob Syring, S like in Sam, Y-R-I-N-G.

Q. And what's your address?

A. P.O. Box 283, Willow Lake.

Q. What is your profession?

A. I have an income tax, accounting, and consulting firm in Willow Lake.

Q. And one of the people you consulted with, as we heard earlier today, was the elevator; is that

right?

A. That's correct.

Q. Do you do some substitute teaching?

A. Yes, I do.

Q. And where do you do that?

A. Willow Lake, Iroquois and DeSmet.

Q. Basically, as I understand it, you were going to be a spokesperson for a number of the residents in Carpenter; is that correct?

A. Yes, I am.

Q. And I would just let you speak to that then.

A. Okay. I guess, first of all, I have a letter here from the Willow Lake school staff. And what it basically says is the following: It's really addressed to the Public Utility Commission. Probably should have addressed it to U S West.

But it said, "We, as members of the Willow Lake Education System, are writing this letter in concern for the well-being of our Carpenter students. The Internet has become an integral part of our world, and it is our understanding they cannot receive access in Carpenter with the current services that you provide. Students are given assignments in a wide variety of classes that involve usage of Internet research and the Carpenter students cannot do this at

home. They're not given the same opportunities as the other students in our school district. We ask you do something about this. Thank you for your consideration regarding this matter. We hope that you will really consider our children to provide this service." And it's signed by most of the high school teachers at the Willow Lake school system and the principal as well as the superintendent.

MS. CREMER: Could we have that marked as an exhibit, please?

(EXHIBITS NO. 6 & 7 WERE MARKED FOR IDENTIFICATION.)

MS. CREMER: Just to update you because you were gone, 6 is a letter from the teachers in the Willow Lake District. And I have had her mark 7. We were just going to talk about that.

Q. Before you is what has been marked Exhibit 7. Can you identify that?

A. Yes. It's a petition signed by residents of the Carpenter area.

Q. What does that petition regard?

A. To the phone system provided by U S West.

Q. Okay. Ani can you summarize what's on that petition?

A. Basically they're concerned about -- it

basically states the following: "I live in the Carpenter area and use U S West telephone lines. I am directly affected by the problems with these lines. My concerns include the danger involved when phone lines are not working, the inability to access Internet, the unavailability of extra lines, and the poor quality of these lines. I am also concerned that the problems with these phone lines make it difficult for businesses like the Willow Lake Farmers Elevator to operate in an efficient and technologically advanced way and therefore affect the economic well-being of our community." And it's signed by I believe there's 40-some signatures on here.

Q. And are those addresses Carpenter addresses?

A. Yes, they all are.

Q. Okay. And I interrupted your statement. I'll allow to you finish in a minute. I'll move for the admission mission of Exhibit 6 and 7?

MR. WELK: Can I ask questions for purposes of foundation?

MS. WIEST: Go ahead.

MR. WELK: The petition that you bring today, did you circulate the petition?

A. No, I did not.

MR. WELK: Who did?

A. It was done in the city or town of Carpenter.

MR. WELK: Is there any one particular person who witnessed all the signatures?

A. I can't answer that. I wasn't there.

MR. WELK: Who prepared it?

A. I believe Mr. Glanzer.

MR. WELK: With the help of anybody, or did he do it on his own?

A. I can't answer that.

MR. WELK: So you don't know who prepared it, other than maybe Mr. Glanzer and how it was circulated; is that correct?

A. That's correct.

MR. WELK: And there's no notary authorization or acknowledgment that these were signed before any particular person; is that correct?

A. That's correct.

MR. WELK: I'm going to object on foundation purposes.

MS. CREMER: My the point here was merely the community's feelings on this matter. The Commission can give it the weight it feels it deserves.

MS. WIEST. Well, I would say that it should be denied. I just don't see there has been any foundation established by this witness.

MS. CREMER: That's fine.

Q. You can go ahead and finish your statement.

A. From an educational standpoint, I've been substituting in Willow Lake ever since I moved there about three years. My main areas of substitution are in the classroom in the computer area. Willow Lake just recently purchased 26 new computers, IBM compatible, and are accessing the Internet at the school. One of the things that the reason this letter was signed was the fact that students often get assignments in the high school area to do reports. Most of those reports from now are available -- the information is available on the Internet. So most of the students at that time when they go home at night, they access the Internet and get as much information as they can from that source, and a lot of times that's what their reports are based on. The Carpenter students do not have that same capability, so therefore they are, I want to say, a handicap, but they certainly are at a loss for being able to do the same, having the same capability as the students are at Willow Lake High School.

MS. CREMER: That's all I have and move the Exhibit 6.

MS. WIEST: Is there an objection to the

letter, Mr. Welk?

MR. WELK: I don't have any objection to the letter.

MS. WIEST: The letter is admitted.

COMMISSIONER SCHOENFELDER: I disagree with your ruling on the petition. I don't know that we have any requirement that there has to be a notarized thing. This is something that someone wanted us to take notice of. I think we can take it and look at it and give it the weight that's necessary. I don't think it should have to have the legal connotation of a petition for election or a petition to remove someone from office. This is just sort of an expression of the people in the area's feelings. So I disagree with your ruling just for the record.

COMMISSIONER NELSON: Do you want to move to overrule the Chair?

COMMISSIONER NELSON: I'd second that.

CHAIRMAN BURG: I'll agree. I think that we can look at what is there and give it the weight that's necessary.

MS. WIEST: Exhibit 7 is admitted. Anything else? Do you have any questions, Mr. Welk?

MR. WELK: No, I don't.

MS. WIEST: Commissioners?

CHAIRMAN BURG: Yes, I have a couple. You said you're in the computer business in Willow Lake; is that correct?

A. That's correct.

CHAIRMAN BURG: Do you have any idea how many of the students in the Willow Lake school have access to a computer at home?

A. I -- it would be a guess, but I would say probably 50 percent have computers at home, 50 and 60 percent of the students probably have a home-based computer.

CHAIRMAN BURG: In the Willow Lake school districts? That would be families?

A. There's quite a few.

CHAIRMAN BURG: Would those all be connected to the Internet, in your estimation?

A. Maybe a good share of them, half or better maybe. But I'm sure there's a lot of them that don't have it, too, but they do have -- the Willow Lake students do have the capability of getting on the Internet if they need to.

CHAIRMAN BURG: Yes, I understand that. But the 50 percent, then, we'll just assume, or 40 percent that do not have it, would be in the same boat at Carpenter; is that correct?

A. Yes, it could be.

CHAIRMAN BURG: That's all I have.

A. Or they could possibly go to a house in Willow Lake.

CHAIRMAN BURG: But the Carpenter students could do the same thing because they're all in the same community?

A. Yes.

COMMISSIONER SCHOENFELDER: To your knowledge, do you know -- and this probably is not a relevant question, but I want to know any way. In the Willow Lake school system itself, do you have any types of interactive education? I know they use computers and so forth, but do they have any interactive education teaching?

A. Yes. We just set up a special room. When the new computers were set up, they set up a special room to hold classes through US -- South Dakota State University in Brookings, so, yes.

COMMISSIONER SCHOENFELDER: That's video as well as --

A. As computer, yeah.

COMMISSIONER SCHOENFELDER: Thank you.

MS. WIEST: Any other questions of this witness? If not, thank you. (Witness excused.) Any

other witnesses, Miss Cremer?

MS. CREMER: I think he's in a hurry to go home. I would like to call Claude Glanzer.

CLAUDE GLANZER,

called as a witness, being previously sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CREMER:

Q. Now, you heard Mr. Evans call you Claudia, of course, a few times, didn't you?

A. Yes.

Q. But really the point of his testimony, or one of the things he said is that the closer you live to the remote, I believe, that you would be able to get Internet. It would be easier for you to get Internet than those who live further away from the remote; is that right?

A. That's right.

Q. Did you hear him say that?

A. Yes, I did.

Q. How far do you live from the remote?

A. May I look at the map to make sure where it's at? I think I know. Okay. We would be one mile from the remote, would be one mile south and a mile and a

quarter west.

Q. Okay. And have you tried to get on the Internet?

A. We have.

Q. And what has been your success rate?

A. We tried to get on the Internet. It wasn't working. We called back to the -- where it's Santel, where we got the Internet from. And they had us run through the computer and do some checks, and they said we lost something in the computer, so on the program. We took our computer in to where we bought it in town, to Joe Clark, and he went through it and got everything back on. We pulled up the Internet and E-mail. My wife sent an E-mail there at Joe's. We took it home; it did the same thing again. We called up Santel again, and she says, "Where exactly are you at?" We told her Carpenter. That's when she said, "Do you know Dick and Marcie Glanzer?" I said, "Yes, we're neighbors to them." She says that's where they found out it wasn't working because of the lines weren't adequate.

Q. So you were never able to get Internet?

A. No.

MS. CREMER: That's all I would have.

MS. WIEST: Any questions of this witness,

Mr. Welk?

MR. WELK: No.

MS. WIEST: Commissioners?

CHAIRMAN BURG: Just one quick one. You indicated you thought you were a mile and a half. Would it be two and a half the way I look at this?

A. We're a mile south to a mile and a quarter west.

CHAIRMAN BURG: Are you right on the red line that goes northeast and west?

A. No. We're a mile north of that red line.

CHAIRMAN BURG: And where does -- which way does your phone line come in from, do you know?

A. It comes in from the east.

CHAIRMAN BURG: So you would be a mile south and about a mile and a quarter west?

A. That's right.

CHAIRMAN BURG: Thank you.

MS. WIEST: Any other questions of this witness? If not, thank you. (Witness excused.) Miss Cremer, any more witnesses?

MS. CREMER: Yes. I would call Steve Wegman.

STEVEN WEGMAN,

called as a witness, being previously sworn,

was examined and testified as follows:

DIRECT EXAMINATION

BY MS. CREMER:

Q. I would just remind you you're under oath. Steve, in your opinion, was the system under-designed, the SLC 40 system?

A. When it was designed in 1978, it was probably adequate for voice communication.

Q. And what about now?

A. Right now -- I did quite a bit of research on the SLC 40 system with Lucent Technology, and it took me quite some time to get some information on it.

One of the things that was at comment was the guy says, "You need parts for it or something?" And I said, "No, tell you what, I'm just looking for the technical specifications on it." Lucent Technology is the original manufacturer of the SLC 40 system. They did not have any books in their library. I also called all of the exchanges that were sold by U S West, and no one has -- I could not find a tech book on it.

Basically, a SLC 40 system is a four byte, what's called adaptive Delta modulation. In other words, it does not like to pass data very well, which results in for a lot of things. It's not going to let information like that pass through the voice channels

like you would have on a regular 5E switch or some of the other NEC type of carrier systems out there.

Q. Will the satellite system that U S West proposed work if the landline system isn't providing 300 to 3,000 hertz?

A. You need to have 9,600 bytes per second for the satellite connection to work. In the conversation I had with direct PC on it, is that they require the landline telephone to pick their Internet provider. The satellite in return downloads all the big part of the portion of the data to the Internet user. So, in essence, it's a one-way system on the phone line and it's a one-way system back through the satellite system. So, in other words, it won't work because you cannot get 9,600 bytes per second on a SLC 40 system.

Q. This 9,600 bytes per second, how does this figure in this 300 to 3,000 hertz?

A. According to the FCC regulation, 9,600 bytes per second equates back to 335, 300 to 3,000 hertz for the bandwidth. And without it, computer modems or fax machines aren't going to work correctly. In this conversation, basically you have different modulating schemes. From the 9,600 bytes per second, it depends on what the symbol rate is and how many bytes per symbols are going to be sent there. This is how you

get to the higher speeds of 14.4, 19.2, and 28.6, et cetera. It's a modulation scheme done between the bytes per seconds to symbol rates.

Q. So if U S West were providing, according to their testimony, they're providing 300 to 3,000 hertz, in your opinion, if they were providing that, would the people in Carpenter be able to get Caller ID -- you know, CLASS features, Caller ID, be able to transmit data?

A. They would if they were getting 9,600 bytes per second, but, obviously -- and this is the part that I don't have on the SLC 40 system. Does it operate between 300 to 3,500? As I understand, the SLC 40 system optimizes voice grade service or voice communications and is a detriment to the data side of it. But I'm not sure exactly how it does it. Remember, it's an adaptive Delta modulation, which means it's a four byte. It appears to be a four byte system, while we work in an eight byte environment. So I'm a little confused at that portion there.

Q. So what is this adaptive Delta modulation that you just referred to?

A. That is the scheme on how they get 40 channels on a T-1. It appears to be it does an adaptive rate. It's not compatible with what's

currently used in the industry as pulse code modulation, or PCM. The SLC 40 system had a short shelf life. It was between the mid-seventies and probably not after 1982 they were installed. And that's according to the Lucent people I talked to in what's called the Lucent radio center.

Q. Did you do any testing on the network in the Carpenter area?

A. I did some limited testing in Pierre, Huron, and on the Carpenter phone numbers.

Q. And can you tell us what did your tests involve? What you did?

A. Okay. Basically I used a digital from Digital Services Group. It's called an MQT data grabber. It's two matched units that look at modem speeds, looks at signal to noise, it looks at dB loss. It looks at error rates and bytes sent. And they're both matched, they're both certified pieces of equipment. They are fairly easy to use. They're what you call a plug and play technology. You plug it in the phone jack and off it runs. In the Pierre area I got it, and I rented an autorange to find out what the maximum speed to speed was and what the error rate would be.

To give you an idea in Pierre I used both the

PBX. I tried a PBX, NTRON PBX to PBX, did it from my house and a couple other houses in Pierre residential into the PBX in Pierre at the Capitol complex. In all cases ran it for five minutes, kind of what we call in the business a Polaroid moment, to find out what's its characteristics. In all the cases in the five minutes in those instances, I sent over a 400,000 bytes of information and received zero errors. That's very, very good. In addition to that, found that the voltage at both of the -- at the RJ11 plugs was 49 to 50 volts, which is good because I tried to keep in the network at 48 volts. That would be minus 48 volts dc or minus 49 volts.

In Huron I tried two different numbers. And in both of them in the five-minute test, they sent roughly right around 400,000 bytes of information, very similar to Pierre. Again, no errors. It means all 400,000 bytes received at both ends and back. And, again, the voltage was minus 50 volts and minus 49 volts.

Carpenter became very interesting. I have pulled five random numbers in the exchange due to the mud conditions yesterday. In Carpenter two of the phone lines I could not get a connection. The modems would not lock in. On those two phone lines the

voltage was 42.9 volts and the other one was 39 volts. And the modems wouldn't lock in. On the other three I got the modems to lock in, but the error rate was over 40 percent. In other words -- and, also, they only locked in at 12,000 units. Of those units, 40 percent of them got lost between Carpenter to Huron at the number I had tested, in both cases. That could be due to the SLC 40 system or a high signal loss rate, which kind of leads us an idea that there could be noise on the line.

One of the things that the people complained about is a drop corrections. Drop connection, when they cannot connect. It could be two items, to be a SLC 40 condition, or it could be noise on the line. The lowest voltage that I received out there was 37 volts at the plug, which they're supposed to have 48 volts out there. And I found that very, very interesting, which kind of would give an idea if it's 37 volts, why these people talk about the phone might ring half of a ring and may not come through there. It may not have enough voltage to ring the circuit. I just found it very interesting. It's just again, to my mind, the Commission, it's just kind of a snapshot on looking at it. But 37 volts is not a normal operating range. It's supposed to be minus 48.

Q. How would you solve the voltage problem?

A. I'm not sure if it's because of load coils out there. One would have to do a more design engineering to find out exactly what is causing it. Could be loose connections. It could be a variety of things, but it would take a more detailed study.

Q. What about the 40 percent error rate?

A. 40 percent error rate, one would have to do more analysis. Either a SLC 40 condition or a high signal loss rate on the network. It's one of the reasons why in the data requests I sent out to U S West, what kind of testing do you do out there, what kind of frequency response it, what is the signal noise loss, what's the loss rate, and the what is the voltage in the network beyond the central office? From what -- from looking at just five random places, and I just -- these people didn't select them. They didn't coach me. I just said I want to go here, and that's what I did.

Q. Have you looked at any alternative provisioning of services?

A. I looked at SMR. I looked at satellite. SMR is special mobile radio. Satellite, looked at cellular systems, and talked to vendors, and also looked at private microwave link. And it would not meet these

people's needs for local basic service, what they're looking to use. They want to use computers at home. They want to use Internet. They want to use fax. They wanted second lines. They just want good quality service.

Q. And what's your recommendation to the Commission, keeping in mind -- well, just what's your recommendation to the Commission?

A. My recommendation would be for the Commission would be to replace the SLC 40 system and put in a comparable system that the more urban areas have so that these people do get Internet service, they can send fax, they can conduct their business on a daily basis.

Q. And if the Commission were to order that a new facilities, a new system be put in, would that satisfy the safety, convenience, and accommodation of the public, the sorts of concerns we heard from the residents of Carpenter?

A. If they put a system that would be comparable to the NEC T-RECs or C-RECs systems, yes.

(EXHIBITS NO. 8, 9 & 10 WERE MARKED FOR IDENTIFICATION.)

Q. I'll show you what's been marked as Exhibit 8. Can you explain to us what that is?

A. Exhibit 8 is Beadle County, and it shows the locations for -- and I have to apologize to the complainants that I did put a number on them rather than their name and that's because it's easier for me to find. It shows the locations of their farmsteads or residences or business. First one, Beadle County and it's TC98-010 and TC8-016 and TC98-012.

Q. And 10 is Regan Glanzer; is that right?

A. That's correct.

Q. Where he lives. 12 is Claude Glanzer and 16 would be Keith Glanzer; is that correct?

A. That is correct. And for Commissioner Schoenfelder asked where the James Valley School was, and that is on the Lake Byron Road right here at the James Valley, one, two, and about a half miles east of the South Dakota Highway 37.

Q. And Exhibit 9?

A. Would be that's the south Spink. It's the south half of Spink County. And that would show a Ben Hofer's, which would be TC97-178; and Mike Madsen, TC98-011.

Q. And then Exhibit 10?

A. Is the south half of Clark County. And it shows the location of the Willow Lake Elevator, TC98-007, in the highlighted area. That's the green

and dashed yellow line; Dick Glanzer, which is TC98-009; and TC98-008, it must be a Waldner.

Q. Galen Waldner.

MS. CREMER: I would offer those. They're merely demonstrative. I think that's the appropriate word, just to show where the people lived in the county was the point of those exhibits.

MS. WIEST: It just shows the location?

MS. CREMER: That's correct.

MS. WIEST: Any objection to Exhibits 8, 9 and 10?

MR. WELK: No. I hate to think they brought those charts from Pierre and we don't get them in.

MS. WIEST: 8, 9 and 10 have been admitted.

MS. CREMER: That's all the questions I would have.

MS. WIEST: Mr. Welk?

MR. WELK: Just a few questions, Mr. Wegman.

CROSS-EXAMINATION

BY MR. WELK:

Q. All the tests that you described that you did in Pierre and out in the Carpenter area in Huron, are those tests regarding data transmission?

A. You have to remember a modem. A modem is a device that takes digital signal data and converts it

into a voice signal. So if one wants to call that data, which some people do, or some people just call it plain old voice signal. It operates in the particular bandwidth. Is it intelligible as far as the human ear? No, but it is to another machine.

Q. So it's machine to machine?

A. That is correct.

Q. I want to talk about your recommendations. First of all, if U S West was ordered to put in the facilities, the 211,000 -- and is there any contracts that you're aware of that exist between U S West and the customers up in this Carpenter area, any long-term contractual commitments?

A. Not that I know of.

Q. So if U S West put the facilities in and for some reason and maybe we're all wrong or a new provider comes along in a year or two or three and provides a cheaper service and a better service, there's no requirement that these people stay with U S West? They would have the option to go with the new provider with the better service, cheaper service; correct?

A. Depends on how you want to define that service. Is it terrestrial based or wireless?

Q. Doesn't make any difference. They're not obligated, are they, if this facility goes in, to walk

away from U S West or to any other provider?

A. If they would get into a resell situation, they're still going to buy from U S West on a secondary market.

Q. That's not my question. Are they obligated under a long-term basis if U S West puts these facilities in to remain a U S West customer?

A. No. They could have no telephone service.

Q. And would you agree with me since you are the visionary of the Commission regarding the Governor's Vision Bill, which is statute 41-31-60, that the facilities that proposed the 211,000 would be consistent with implementing that vision?

A. If you put ISDN cards, yes.

Q. And if U S West put that facility in, is there any question that he would be entitled to a fair rate of return on investment?

MS. CREMER: I would object.

MS. WIEST: On what basis?

MS. CREMER: What was your question?

Q. Would there be any question that U S West would be entitled to a fair rate of return on its investment?

MS. CREMER: Well, my objection is they're not under a rate of return. And isn't that what you're

talking about?

MR. WELK: 41-31-60 says that. But I just wanted to get him --

MS. CREMER: I will object. You're asking for a legal conclusion, and he's not a lawyer.

MS. WIEST: Can you answer the question, Mr. Wegman?

A. No, I cannot.

Q. So you're the person from the Commission that is in charge of implementing the Vision, and you can't tell me what the provider puts in a service is entitled to fair rate of return?

MS. CREMER: Now I object. You put the label on him that he's the man in charge of the Vision in the Commission. And Mr. Wegman's position is merely he is the analyst on the docket. The Commission is in charge. You have put -- you stuck that label on and I let you get away with it because it's no big deal, but really he's not the person in charge and you should re-word your question.

MS. WIEST: He answered the question. Can you move on? He said he didn't know.

MR. WELK: I don't have any further questions.

MS. WIEST: Do the complainants have any

questions of Mr. Wegman? Commissioners?

COMMISSIONER NELSON: I have one. Steve, do you know if you can use TDDY's on the SLC 40's?

A. I'm -- I don't have -- I don't know the answer to that. I just looked at the higher rate, and I'm quite concerned with it. When you send -- I sent data that was slow speed, and 40 percent of it never got to where it was supposed to go. I would have a concern that probably might not. I'm not sure.

COMMISSIONER NELSON: TDDY is not a voice communication. It is a data communication. So can one assume then that it's --

A. It may take a long time. It may look like a fax machine. In looking at some of the faxes that they sent, it took three to five minutes, three to 15 minutes for some of the faxes to go through. So it might work.

COMMISSIONER NELSON: And you recommended that we replace the SLC 40?

A. That's correct.

COMMISSIONER NELSON: And your reason for that was because it's obsolete technology? Is that what you said?

A. It doesn't meet their current needs. And I would have a better reason if U S West would have

answered my data request. Then I could -- I don't believe that it meets the 300 to 3,000 hertz.

COMMISSIONER NELSON: And, therefore, would not be in compliance with the Federal Act?

A. With the ETC requirement, correct.

COMMISSIONER NELSON: When you talked a little bit about the noise on the line, what might cause that, I think you gave us two things that might cause it; right?

A. Corrosion, line taps, load coils can.

COMMISSIONER NELSON: Are those the only things that could cause it?

A. Oh, no.

COMMISSIONER NELSON: There are a lot?

A. There are other variables out there, yes.

COMMISSIONER NELSON: Thank you.

COMMISSIONER SCHOENFELDER: I have to ask you, not because that I'm implying it applies to U S West. But if you know, can you tell me what the hertz requirement is under the RUS, the Rural Utility Service, that they require of their borrowers to borrow from the Rural Utility Service in the rural areas from their phone companies?

A. 300 to 3,000 is what I remember reading.

COMMISSIONER SCHOENFELDER: Oh. I hate to

tell you, I think you're wrong.

A. Okay.

COMMISSIONER SCHOENFELDER: That's all I have.

CHAIRMAN BURG: Just one that Commissioner Nelson's question brought to me. When you said there's a lot of noise on the line, was that the right word? Is that what we use?

A. Yes.

CHAIRMAN BURG: Was that are you talking data noise? Are you talking voice noise?

A. Data noise.

CHAIRMAN BURG: Did you pick that up from the testing?

A. Yes.

CHAIRMAN BURG: I thought you said the testing was done with data.

A. Well, it's machine to machine. It's what you're sending is acoustical sound waves.

CHAIRMAN BURG: But the point I'm getting at would that same kind of noise be evident in a voice conversation?

A. Well, you have to remember, your ear is not a real good perfect listening device, while machines are more -- it tracks each item that comes down there. If

you send 400,000 little boxes, it's going to count for 400,000 little boxes. Your hearing isn't that precise of a listening device and so you could -- certain people won't here certain noises.

CHAIRMAN BURG: So is your answer in a normal conversation you may not pick up noise on there?

A. That's correct. Right.

CHAIRMAN BURG: There was an awful lot of questions about noise on the line. I do not want to get confused for decision-making purposes of what noise that you found from trying to move data compared to noise what you would hear if I called somebody up in Carpenter.

A. Certain people, if they worked on loud equipment, they're going to have certain frequencies and their ears may not pick up certain noises.

CHAIRMAN BURG: Or if you used a dog, they might pick them up?

A. Right. One of the things I found interesting in the cafe, when I picked up the phone in cafe in Carpenter, I could hardly hear the other people on the end of the line, while other phones I picked up worked fairly good. And in the times that I have called the people in Carpenter, it was a matter of selection which channel I kind of think that you got on. Some were

good and some were not as good.

CHAIRMAN BURG: That's all I have.

MS. WIEST: Miss Cremer, any redirect?

MS. CREMER: No.

MS. WIEST: Any other questions for the witness?

COMMISSIONER NELSON: I have one. When you talked about sometimes people got disconnected, did I understand you to say that that could be because of noise on the line?

A. That's correct.

COMMISSIONER NELSON: Is that the noise on the line that's coming from data, or the noise on the line that's coming from voice communication?

A. It depends on which -- it would depend on which channel. I would say it depends which channel you're on.

COMMISSIONER NELSON: Do you have any -- you don't switch channels? You're either on one channel or the other. So depending on which channel you're assigned, that would depend on the quality of your voice data voice communication; right?

A. Because U S West didn't answer my data requests, the assumption I'm making is that each time you pick up the phone line, it depends on which channel

you're going to be in that SLC 40 system.

COMMISSIONER NELSON: So it does switch. Kind of like on your cordless phone, you get whatever?

A. Whatever number is available. And that's based on personal interview with the people. Sometimes their equipment would work; sometimes it wouldn't work. And so it kind of gives me an idea in a SLC 40 system it selects which channel you're going to be on. It may not be the same.

COMMISSIONER NELSON: Would noise on the line also cause the crossover problem where you hear different voices?

A. Cross talk could be something -- could be a channel function back in the SLC 40 system. That cross talk can come from a variety of areas.

COMMISSIONER NELSON: Is one of those noise on the line?

A. Would be like -- could be like a noise on line or a close proximity to the conductors, things like that.

COMMISSIONER NELSON: Okay. Thank you.

MS. WIEST: Thank you, Mr. Wegman. (Witness excused.) Do you have any other witnesses, Miss Cremer?

MS. CREMER: No, I don't.

MS. WIEST: Do any of the complainants have any rebuttal testimony they would like to give at this time?

CRYSTAL GRANN,

called as a witness, being previously sworn, was examined and testified as follows:

REBUTTAL EXAMINATION

BY MS. GRANN: Just in response to what Colleen -- and, I'm sorry, I don't remember your last name -- was saying. She indicated she spoke to each party and with the specific purpose of asking them about the voice quality of the phones. I think I'm the one that she spoke to as far as the Willow Lake Elevator is concerned. At least someone from U S West called back in January shortly after we filed the petition, the complaint. At that time all she asked was the nature of our complaint. I basically told her what we wrote on the complaint, plus the second page of all the details of who I talked to at U S West and all that. She wasn't familiar with that and suggested that maybe she should get that. I agreed with her. As far as I can remember, that was the extent of our conversation.

Then again about a week ago someone else, perhaps the same person, a lady called. The only thing

she asked is if we were the company that was having trouble sending faxes. I said yes. I explained about our different location. But I said I was familiar with it. She asked about the specifications of the fax machine. I told her that. That was the extent of the conversation.

MS. WIEST: Any other rebuttal testimony? Is there anything else that you need to do before I ask if anybody makes any closings statements?

MR. WELK: I want Colleen under oath to clarify what she said before.

MS. SEVOLD: I believe -- I believe the record will show that I said I called all the customers in the March time frame on voice grade line, with the exception of the elevator because I had talked to them back in January about their complaint. So I believe the record will show that I said with the exception of the elevator.

MS. WIEST: Okay. Is there anything else?

CHAIRMAN BURG: The question that I would have, you denied the quash of the data request; is that right?

MS. WIEST: I thought it was moot because staff was not asking for a continuance in order to get that information.

CHAIRMAN BURG: I guess all I'm saying, the only thing I was considering, Mr. Wegman said he could not make some clear recommendation because of lack of some of the data at this time. I was wondering about data being filed at this point would help with the decision-making process, is all I'm thinking.

MS. CREMER: Staff's point, I guess, and our point is, you know, if they didn't want to provide that information to us so that we could make a recommendation, that may be, you know, less drastic than replacing all the facilities up in the Carpenter area, that was certainly their choice. They chose not to respond. Not having had any information, we went with what we had and that is replacement of all the facilities.

CHAIRMAN BURG: I guess I would request it this way. I leave it up to the company, U S West, as to whether they wanted to provide that data as a late-filed exhibit or something or not.

MR. WELK: I don't know what they want, Commissioner.

CHAIRMAN BURG: What was request of staff?

MS. CREMER: There was two different data requests.

MR. WELK: Well, we have -- we brought the

data. I mean we brought the inspection reports, we brought the cable things today. They're here.

MS. CREMER: Well, then apparently you didn't put that evidence on.

MR. WELK: Don't need to. You didn't ask. It's here. And I said all these documents are confidential. And I told you in the record this morning the reason we didn't provide it is because you didn't go to the Commission the way we have to go to the Commission. If the information is here, it would be right. All these are confidential documents. If you want to supplement them, I mean, you could have asked for them here, or we could put them as a late-filed exhibit, but they're here.

MS. WIEST: Does the Commission want those as late-filed exhibits?

CHAIRMAN BURG: I don't care. I just allow each side to put on their case.

COMMISSIONER SCHOENFELDER: I do if they're pertinent to the case and if they answer the staff data request questions. They can file them under cover. I'd rather have too much information than not enough.

MS. WIEST: Then will you file that information that you brought.

MR. WELK: I'll do that with the Commission,

what they requested on the studies.

MS. WIEST: That would be late-filed exhibits. We don't know how many numbers. Is there anything else before I ask if there's any closing statements? Do any of the complainants wish to make a closing statement at this time?

MR. KEITH GLANZER: In closing, I would just like to ask U S West to please consider our needs and meet them in our rural community. Our telephone related needs are very important for rural communities to survive. We are all the time important to family farmers and how we can keep our children on the farms and in our state. And we kind of sit here today feeling like kind of a second-rate citizen because we're 30 miles from town and we should be home tending on livestock, dragging calves out of the mud. Next week we can sell them, and you can eat the best beef in the United States. You know, I'm sure attorneys and politicians know what good beef is. So I guess I don't feel that we should be deprived of the convenience of what the people in town have. And, you know, we can't all live in Sioux Falls. Some of us have to field this world.

And I found something on the back of our phone books. This is a Huron directory. Most of our

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And I found something on the back of our phone books. This is a Huron directory. Most of our

names are in here. And U S West has right on the back, "it's easy to call in our experience," big red. You can read it way back there. It says, "Of all the ways you're communicating today, U S West is ready for you right now." Did you hear that? "And as your personal needs change or your office grows, we've got the products and the services that will keep the lines of communication open and productive clear into the future." We're worried about today, not the future. I mean that's on the back of our phone books is that propaganda or does that mean something. Do you want that for evidence?

MS. WIEST: No.

MR. KEITH GLANZER: That's a brand new phone book.

MR. WELK: It's not part of the evidence. You made your statement, sir.

MS. WIEST: Do any of the other complainants wish to make a closing statement?

MR. SYRING: Bob Syring. I just kind of wrote a closing statement here. I said I would like to start this letter off by saying, what did the town of Carpenter ever do to U S West? This small town at the eastern part of South Dakota is asking for some help in making their lives easier, more educational, more

profitable, more competitive, and especially more safe.

Let's start with the small community being safer. By U S West not upgrading the communication system from the SLC 40 to a more efficient and modern system that causes some safety issues, what happens if all these lines are busy and someone needs to get through to an ambulance or a fire truck? Does this mean that these people who need the help will have to sit and wait until someone gets off a party line and then make their emergency call? I hope not. What if a neighbor has some sort of emergency and can't get help because the system is busy? I would think U S West -- that U S West feels as strong as we do about making sure the people in this community have every opportunity to get emergency help when it's needed. I would like to think that a public utility company would not allow the cost to fix this problem be a consideration or trade for a someone's life. How would you feel if someone in your family would be hurt or die due to the fact an organization the size of U S West put money before someone's life?

Let's look at the next important factor to consider are our children. What price do you want to pay for them not receiving all the benefits of getting

the same education as everyone else that attends their school? These children are the age of the new millennium. They're being educated in the classroom on computers. They're being asked more and more to spend time and learning about computers benefits of using them. One of those benefits is ability to get on the Internet. How do we -- how do they do this with the 1,200 baud line? Why should they not have the same benefit every other child in South Dakota has? They're asked to do research. How do they do this without the ability to get on the Internet and find research information? You have taken away from them the ability to be competitive with the other students. The other students have an edge on them from Carpenter, and this is not right. We need to provide all our children with the same advantages and same opportunities.

Let's talk a little about the farmers in the Carpenter area. How are they supposed to compete with farmers in other areas? The Internet provides them with essential information from latest information about such things as chemicals, fertilizers, seed, equipment, weather, new technologies, and many other important aspects of farming. If they had Internet capability, they could discontinue using DTN and only have one system. They would save each of these

individuals money. We have taken away a means of getting this information to help them provide the best way of competing with the other farmers in South Dakota. How much of it has this cost them by not having the latest prices on grains, feed, cattle, and other marketable products? With the current system, you have put them back into the 1940's.

I thought that what U S West would be striving for is to improve communication technology to your customers not going backwards. How about the businesses in the small town? What are you providing for them? Nothing. The Willow Lake Elevator has a station and agronomy business in this town. There are other small businesses in this town. How are they supposed to compete? The Willow Lake elevator's main office would like to hook up to the Carpenter facility. They would like to be on line and real time. This is impossible with the communication system you currently have.

The Carpenter station has an agronomy package they use for -- pardon me -- this package to help men execute the correct requirement for spraying and fertilizing needs. They need to send this information to Minnesota. How do they do this? They can't communicate in data to AgriSource in Minnesota. The

AgriSource facility cannot slow down their system enough to pick up the data. Sometimes it will go through, and most of the time it will not. Do you have any idea what this creates? It takes away from the business being able to compete with other businesses in that area. They cannot provide the information on a timely and accurate basis and therefore they lose customers.

How would you like it if we took away the ability to compete? You currently have no competition in the area of being a public utility and you're asking for the PUC to give you more freedom. What about these people in Carpenter? They are asking you give them some of the same ability to stay competitive. I guess I don't understand what the problem is other than money. You have put them in jeopardy with their public safety. You take away the ability for the children not to have the same benefit as other children in the school. You take away the ability for the farmer and the business to compete with other businesses. And all you can say is you provide the minimum required by law.

I believe that's not the case. I hope the PUC feels the minimum 1,200 baud is not the case and you should provide at Carpenter the same as the rest of

the state of South Dakota. I wonder how many other public services telephone companies provide the minimum service in this state? It might be interesting to take a survey to see just what other -- some of the others do provide.

My final question to you is this: Where else in the state of South Dakota does the minimum service exist? I'd like to be willing to bet that Sioux Falls doesn't have it. I'll bet that the Rapid City doesn't. How about Huron or Watertown? Does Redfield or Aberdeen have minimum service? And how about such towns as Doland, Tulare, Wessington or Wessington Springs? I bet they have lines larger than 1,200 baud. What do you think? So why are you discriminating against this town?

Should the Public Utilities Company provide the same service to all its customers regardless of the size and location or cost? Maybe we should look at the phone bills to see if you charge more for one location than another. Why does Carpenter pay the same rates for the telephone service if it's not close to other locations? I hope that you take the time to evaluate this and not let the cost as much as your as what you are doing to this small community. They should h ve the same rights and privileges as everyone else. Thank

you.

MS. WIEST: Any other closing statements?

MS. GRANN: Just one comment. Mr. Welk, you caught me off guard earlier when you asked me as a business woman if I could justify this kind of cost. I testified earlier that our company just spent $80,000 on a new computer system. This isn't the kind of expense that we're going to see a visible return on. But if we can improve our services, increase our services, have less down time, less maintenance, yeah, I think we're going to see a return on it and we can justify it; and, yes, I think U S West can too. We're not asking for that much.

MS. WIEST: Mr. Welk, do you have a closing?

MR. WELK: I would prefer to do it with Proposed Findings of Fact, Conclusions of Law, and a legal brief.

MS. WIEST: Okay. Staff?

MS. CREMER: Yes, I do. Something is wrong here. The people who use the system in Carpenter have told us there's a problem. Staff's recommendation is to replace the SLC 40 system as necessary for the safety, convenience, and accommodation of the public. U S West has discriminated between the Hofers and the Carpenter complainants, and the SLC 40 system should be

replaced.

MS. WIEST: Anything else? What date will you get that brief to the Commission, Mr. Welk?

(Discussion off the record.)

MS. WIEST: Is staff filing a brief in this case?

MS. CREMER: I guess I didn't see a legal issue raised.

MS. WIEST: Okay. I don't think there's anything else.

COMMISSIONER NELSON: I have one question of Mr. Wegman. You're under oath; right? Can he answer from there? Mr. Wegman, do you feel that safety is a significant issue in your recommendation to replace the SLC 40's like the access to the fire, the ambulance, the police, or not?

A. I don't have sufficient information on coming to a conclusion on that portion.

COMMISSIONER NELSON: Would you after we review the data?

A. I might.

COMMISSIONER NELSON: Okay. Thank you.

MS. WIEST: That will close the hearing.

MR. KEITH GLANZER: I just want to personally, on behalf of the group, thank you, the PUC

and the staff, for taking time out of your busy schedule to come here to hear our community's needs.

(THE HEARING CONCLUDED AT 7:20 P.M.)

STATE OF SOUTH DAKOTA)
)
COUNTY OF HUGHES)

I, Lori J. Grode, RMR, Notary Public, in and for the State of South Dakota, do hereby certify that the above hearing, pages 1 through 278, inclusive, was recorded stenographically by me and reduced to typewriting.

I FURTHER CERTIFY that the foregoing transcript of the said hearing is a true and correct transcript of the stenographic notes at the time and place specified hereinbefore.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of office at Pierre, South Dakota, this 10th day of April, 1998.

Lori J. Grode, RMR

2-13-1995 3:52AM FROM

EXHIBIT

1

AGRISOURCE™

Information System for Crop Technology

February 24, 1998

Willow Lake Farmers Elevator
Att: Mike Madsen
P.O. Box 113
Carpenter, SD 57322-0113

Mr. Madsen:

This letter is sent to document the communications problems we have been jointly experiencing over the last several weeks.

We support AgriSource software at more than 500 accounts. We have the most difficulty in supporting your account due to slow data transmission speeds over the bad telephone lines in your area.

Our experience has been that we can reliably connect to your system at only 2400 baud, on a good day. Most days we do well to connect at 1200 baud. Today, 2/24/98, I was unable to reliably connect at any speed down to 300 baud.

The 2400 baud maximum data rate specified by your telephone company is less than adequate for modern business telecommunications. These slow data rates are also difficult to establish with today's modems and communication software. To make such a connection requires us to revert to older software and to manually specify modem initialization strings to force the modems to connect at low speed. The sophistication of such technical procedures are beyond the experience and capabilities of most office personnel.

My best recommendation is to strongly encourage your telephone company to improve the data transmission capabilities of your telephone system.

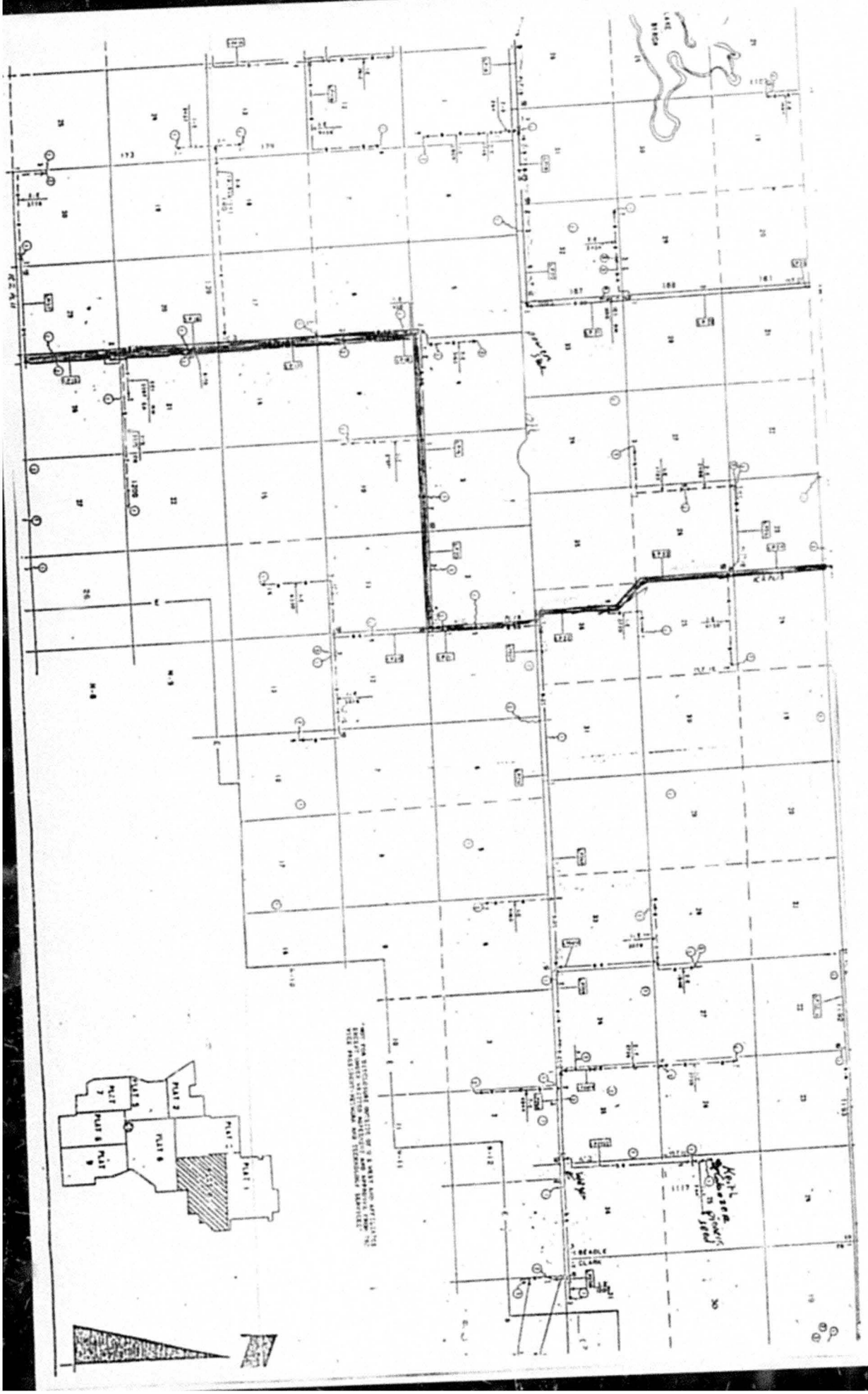
Feel free to contact me if I may be of further assistance.

Thank You;

Robert C. Graves

Robert C. Graves
AgriSource Support
Cenex / Land O'Lakes Agronomy Company
P.O. Box 64089 / MS 370
Saint Paul, MN 55164-0089
(800) 232-3639 x1648

EXHIBIT


PLAT 1
PLAT 2
PLAT 3
PLAT 4
PLAT 5
PLAT 6
PLAT 7
PLAT 8
PLAT 9
BEADLE
CLARK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-10-98 TECHNICIAN NAME 483

EXCHANGE: HURON

PLAT: IC2 plat 10

TYPE SLC: SLC 40 2T

ADDRESS: N4E7E9 Systems

CLLI CODE: HURNSD9060

AREA LOCATION: 6165S

BATTERY TYPE: Cyclon Hawker

NUMBER OF BATTERIES: 3-6 pks

BATTERY TEST RESULTS

1	good	5	
2	good	6	
3	good	7	
4		8	

EXHIBIT 4

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-10-98 **TECHNICIAN NAME** 483

EXCHANGE
Huron

PLAT
1C2 plat. 13

TYPE SLC
SLC 40RT

ADDRESS
N17E14-N1
System 3

CLLI CODE
HURNSDR030

AREA LOCATION
61689

BATTERY TYPE
Cyclon-Hawker

NUMBER OF BATTERIES
3-6packs

BATTERY TEST RESULTS

1 good	5
2 good	6
3 good	7
4	8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-10-98

TECHNICIAN NAME 483

EXCHANGE
HUROU

PLAT
IC 2 pkt 13

TYPE SLC
SLC 40 2T

ADDRESS
N17E14-N1
System 4

CLLI CODE
HURNSDR9030

AREA LOCATION
61688

BATTERY TYPE
Cyclon-Hawker energy

NUMBER OF BATTERIES.
3. 6 pk.

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-10-98

TECHNICIAN NAME Hampton

EXCHANGE
HURON

PLAT
IC 2 plat 12

TYPE SLC
SLC 40 RT

ADDRESS
N12E12.W2
System 2

CLLI CODE
Huron SDR9020

AREA LOCATION
61687

BATTERY TYPE
Cyclon-Holker

NUMBER OF BATTERIES
3-6 pk.

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-10-98 TECHNICIAN NAME Hampton

EXCHANGE	PLAT	TYPE SLC
Huron	IC2 pl. 12	SLC40RT

ADDRESS	CLLI CODE	AREA LOCATION
N12 E12 U2 System 1	HurnSDR9020	61687

BATTERY TYPE
Cyclon-Hawker energy

NUMBER OF BATTERIES.
3 - 6 pks.

BATTERY TEST RESULTS

1 good	5
2 good	6
3 good	7
4	8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-19-97

TECHNICIAN NAME

EXCHANGE
Huron

PLAT
IC2 plat 12

TYPE SLC
SLC40 RT

ADDRESS
N12 E12-W2
System 1

CLLI CODE
HurnSDRT020

AREA LOCATION
61687

BATTERY TYPE
Cyclon - Hawker energy
each 2 Volt 25.0 AH
Sealed lead Battery

NUMBER OF BATTERIES
3-6packs

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

Bad latch will be Replaced.

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-19-97

TECHNICIAN NAME

EXCHANGE
HURON

PLAT
1 C2 plat 12

TYPE SLC
SLC40RT

ADDRESS
N12E12-W2
System 2

CLLI CODE
HurnSDR9020

AREA LOCATION
61687

BATTERY TYPE
Cyclon - Hawker energy

NUMBER OF BATTERIES
3 - 6 packs

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-19-97

TECHNICIAN NAME

EXCHANGE
Huron

PLAT
IC2 plat 13

TYPE SLC
SLC40RT

ADDRESS
N17E14-N1
System 4

CLLI CODE
HarnSDR9030

AREA LOCATION
61688

BATTERY TYPE
Cyclon-Hawker energy

NUMBER OF BATTERIES
3-6packs

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE 2-19-97

TECHNICIAN NAME

EXCHANGE
Huron

PLAT
IC2 plat 13

TYPE SLC
SLC 40 RT

ADDRESS
N17E14-N1
System 3

CLLI CODE
HurnsDR9030

AREA LOCATION
61688

BATTERY TYPE
Cyclon-Hawker Energy

NUMBER OF BATTERIES
3 - 6 packs

BATTERY TEST RESULTS

1 good

2 Bad replaced 3-26-97

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SUBSCRIBER LOOP CARRIER INSPECTION

DATE

TECHNICIAN NAME

EXCHANGE
Huron

PLAT
IC2 plat 10

TYPE SLC
SLC 40 RT

ADDRESS
N4E7 E9
Systems

CLLI CODE
Hurn SD9060

AREA LOCATION
41655

BATTERY TYPE
Cyclon - Hawker energy

NUMBER OF BATTERIES
3 - 6 packs

BATTERY TEST RESULTS

1 good

2 good

3 good

4

5

6

7

8

GENERAL CABINET CONDITION

OK

ALARM TEST RESULTS

OK

SOUTH DAKOTA INVESTMENT PLAN

A. CLASS

Current plans provide for CLASS to Sioux Falls, Rapid City and their remote offices that are not a part of the Exchange Sale. This plan provides for the expansion of CLASS to all remaining USWC exchanges in South Dakota over two years.

B. SINGLE PARTY SERVICE

This plan contemplates a complete elimination of all multiparty service in the 5-year period from 1996 to 2000. This will involve the elimination of approximately 1,250 multiparty lines in 35 exchanges.

C. SOUTH DAKOTA INFRASTRUCTURE PLAN

1. Infrastructure Development

To meet South Dakota's need for applications development for the information highway, numerous technologies need to be deployed and expanded. Therefore, U S WEST plans to develop services encompassing traditional transport services to added value or enhanced services that will provide end-users access to the full promise of the information highway.

U S WEST currently provides many transport services, ranging from facilities-based solutions, dedicated private lines to finished transport services. Upon expanded deployment, South Dakota is poised to take advantage of the following U S WEST services and technologies:

- ATM Cell Relay Switches
- Frame Relay Service
- Commercial Video Service
- Transparent LAN Service (TLS)
- Switched Voice Services
- Special Metallic Access System
- Digital Access and Crossconnect System (DACS)
- Synchronous Optical Network (SONET) Multiplexing
- Local Fiber Distribution
- Remote Switch Module (RSM)

This proposal will expand the availability of many of these services and include new services that will usher in multimedia communications including integration of data, text graphics, video and voice.

EXHIBIT 5

2. **Systems Required**

Additional SMAS points are needed to provide fast and accurate trouble detection and isolation. U S WEST can provide superior service by exhibiting our commitment to repairing circuits and assuring limited down time. The State is an extremely sophisticated customer and demands full disclosure and immediate correction of trouble occurrences. SMAS points strategically located in our network will allow us to comply with their request.

DACS provide an efficient method for changing and rearranging network designs. State government needs change constantly. U S WEST needs to be capable of adopting and accommodating these changes. DACS provide for flexible network designs to satisfy the needs of the state. Strategically located DACS will allow for quick rearrangements the state can remotely administer themselves.

SONET MUXES can be utilized to expand the capacity of the current fiber optic infrastructure. SONET will allow us to increase the bandwidth in our network without burying more fiber lines. As the needs of the customers in South Dakota grow so will the requirements for larger networks. Increasing the amount of SONET equipment will help U S WEST adjust for these needs more economically.

FRAME RELAY SERVICE is a fast packet data connectivity service that is the preferred method for connection to the Internet. Multiple entities in South Dakota are requesting Frame Relay Service for their Internet connection business. Additionally, other businesses in the State like the financial industry are utilizing frame relay in other parts of U S WEST. Frame Relay is an ideal method for lower bandwidth Wide Area Networks (WANS). It is also ideal for emulating private line service.

ATM is the method for networks that are required to provide bandwidth for a combination of voice, data and video. Adding ATM to the network infrastructure will provide an efficient method of establishing a single network that will handle all of the customers' requirements for information distribution. The State of South Dakota currently uses a dedicated DS3 backbone for their voice, data and compressed video services. Non-dedicated switched networks are evolving and provide more efficient service for these types of customers. The State of South Dakota wants to move to this type of more efficient network. The State of South Dakota is also interested in utilizing ATM as the method for distribution of the South Dakota Public Broadcasting Network. Transmitting television signals throughout the state using a U S WEST ATM network would provide them considerable savings in maintenance and equipment charges.

The network could be sized to accommodate all of their voice, data, compressed video and television video and be provided by one source, U S WEST.

Fiber Optic Facilities are required in the local loop of the network also. U S WEST must add to the existing fiber optic infrastructure in the local exchanges. Bandwidth requirements are and will continue to increase in demand from all of our customers. Services such as Transparent LAN Service (TLS) require the high bandwidth across the exchange that only fiber optic cable is capable of transporting. The state of South Dakota has asked U S WEST for design plans for TLS systems in Aberdeen, Rapid City, Sioux Falls and Yankton. These systems would require a large amount of fiber optic cable in these exchanges. The majority of the fiber required would be usable by other customers also. Fiber optic systems in the local loop would also be required to deliver higher order services like ATM to the state's locations.

Remote Switching Modules are required in the Mitchell and Redfield exchanges. These exchanges are currently served by Ericsson central offices. The Ericsson CO's cannot provide many of the Centrex Plus features the State wants. The Ericsson switches can remain in the exchanges and would continue to provide basic telephone service for the majority of the customers. Advanced services like ISDN could be provided by the RSMs. The necessary Centrex Plus service could provide the State and other customers service from the RSMs. Providing these exchanges with RSM technology would also provide the State an ubiquitous 5E platform for Centrex Plus. All of the Centrex Plus systems under contract by the State are currently networked via a series of tie lines. This service will migrate to Primary Rate Interface tie lines in 1995. The RSMs are necessary in Mitchell and Redfield to provide this interface for their Centrex Plus systems.

SMAS

Special Metallic Access Systems (SMAS) provides access points in the network for remote monitoring and testing. These services are located in the central offices and provide information needed to test circuits to ensure the quality of service required. SMAS points are required to provide service assurance for all customers of U S WEST. Our customers are establishing point to point Analog and 56kb networks in South Dakota. They look to U S WEST to provide consistent quality service with little or no down time. When trouble is detected, they demand that U S WEST provide accurate and up to date information on restoral time and details of the problems. Installing additional SMAS points will provide us the capability for faster trouble shooting and more detailed reporting of trouble occurrences. SMAS points are required for these central offices:

- Madison
- Spearfish
- Vermillion

DACS

Digital Access and Crossconnect System (DACS) equipment is designed to provide intelligent mixing of digital services. DACS provides the ability to change the routing paths of dedicated circuits as required by customer request or in the event of disasters. The service can be preprogrammed to allow redirection of circuits so that digital circuits can be redirected to back up centers in the event of failures or damage to the host sites. DACS provides the customers the ability to redirect their circuits via software programming they can direct from their own terminals. DACS is used by customers to efficiently program digital services to the locations needed as directed by their business requirements. A single line from a host can be redirected to multiple locations. This design reduces the need for direct lines between the host and all sites constantly if only one site needs to be connected to the host at one time.

DACS also provide remote testing capabilities for digital services, DS1 and above. Remote testing assists in faster response times during service interruptions and allows circuit segments to be isolated during trouble resolution.

DACS also allows U S WEST the capability to use the cross connecting ability in the design of our internal network. All customers of digital services are prospective users of DACS equipment. Additional DACS are needed in the following host central offices:

- Huron
- Rapid City
- Watertown
- Yankton

SONET MUXES

Synchronous Optical Network (SONET) Multiplexing is special fiber optic terminating equipment that provides the ability to increase the capacity of fiber optic strands. Typically the existing termination equipment provides the capacity of up to 560 Mbps. The more sophisticated SONET equipment can increase the capacity of the fiber optics from OC-3 up to OC-48 (2.4 Gigabits) and into the Gigabit range of services. Additionally, SONET MUXES will provide the ability for drop and insert technology. This means that a customer with multiple sites can purchase DS3 service to connect the sites and drop off individual DS1s at the sites where they are needed. SONET design also includes the self healing capability for the network to redirect itself around trouble spots and provide near 100% up time for the network. The SONET

technology would be used throughout the network in South Dakota for U S WEST's backbone. All U S WEST customers in South Dakota would benefit from this technology. Additional SONET Muxes are needed in the following central offices:

- Aberdeen
- Huron
- Sioux Falls
- Vermillion
- Yankton

FRAME RELAY SERVICE

Frame Relay Service employs "fast packet" technology with access speeds of 56kbps, 64 kbps and 1.544Mbps to provide a high speed connection-oriented data transfer service. "Fast Packet" technology may be classified as having two types of packets: cells and frames. A cell is defined as a fixed size packet (53 octets), whereas frames may vary in packet size. Frame Relay is a frame-oriented packet technology that supports variable frame sizes to cost effectively support bursty applications (e.g., Local Area Network (LAN) interconnection and file transfers), which contain both variable and bandwidth requirements and low delay requirements. The frame relay protocol contains less overhead than the widely available X.25 protocol, translating into reduced processing requirements for the network nodes, hence, less transit delay and increased throughput. Frame Relay utilizes Permanent Virtual Circuits (PVCs) to establish logical connections between customer locations to provide higher access speeds and less delay than traditional packet-switch technologies. In lieu of multiple physical dedicated lines, multiple logical connections may be established on a single FRS Access Link to provide simultaneous logical connections between customer Network interfaces. These multiple logical connections increase the customer's flexibility for data transfer applications. On presubscribed logical connections, variable length frames are relayed between the FRS customer's source and destination locations, utilizing the FRS Access Link's bandwidth only as needed.

- Aberdeen
- Mitchell
- Pierre
- Rapid City
- Vermillion
- Watertown
- Yankton
- Huron

ATM

Asynchronous Transfer Mode is a cell relay service that can incorporate voice data and video signals into one transport method. The signals are placed in cells of digital information and rapidly transported through the network to the address included in the header of the cell. ATM is the method for combining all three services into a non-dedicated transport service. Currently if customers need high bandwidth for constant transmission of signals (like video) they are

required to subscribe to dedicated point to point services. Video and voice are constant bit rate services that cannot tolerate delay of signal. Data transmission can tolerate some delay because the equipment can buffer the transmissions and present the signal as a constant transmission. High bandwidth is required for transmission of large files in the data and video environment. ATM is the network technology that can accommodate the transport of all three types of information and not require dedicated circuits for all three services. ATM establishes the paths for the transport as needed and can dynamically allocate the required bandwidth at the time of transmission. This allows the customer to subscribe to one transmission service instead of dedicating services for each need. ATM switches are required in these locations:

- Aberdeen
- Huron
- Mitchell
- Pierre
- Rapid City
- Sioux Falls
- Vermillion
- Volga
- Watertown
- Yankton

LOCAL FIBER DISTRIBUTION

Fiber optic rings are sophisticated loops deployed in exchanges that are designed to counter rotate so information is transmitted in both directions. When the information is received the equipment determines the best transmission and accepts it. This service provides a guarantee that information will reach its destination even in the event of a cable cut or equipment failure on one route. Customers provided service via this method are assured of near 100% up time on their networks. This is critical for customers depending on our service for their operations. Customers that rely on their network for their business, like telephones sales, public emergency centers, data processing centers, etc., need reliable networks. Fiber rings in the local loop are required to provide this type of service. Existing fiber optic facilities must be expanded to provide for the future requirements of fiber optic rings, Transparent LAN Service and ATM. Additional local fiber distribution is required in these cities:

- Aberdeen
- Rapid City
- Sioux Falls
- Vermillion
- Watertown
- Yankton

RSM

A Remote Switch Module (RSM) is an attachment to a central office connected over distance to extend the capabilities of the central office to another location like a different city. An RSM can be used to economically provide advanced services to additional cities without completely replacing the central office. The RSM does not need to be engineered to provide service for the entire exchange. The RSM is sized to provide advanced services to the customers

that require them. Services such as ISDN can be delivered to a smaller group of customers.

RSMs are needed in these locations.

- Mitchell
- Redfield

INTERNET SERVICE

Internet Service is a data communications and information service that provides capabilities for regional internetworking of various computers, utilizing industry standard LAN/WAN protocols (viz. IP, IPX) for the purposes of both intra-enterprise and inter-enterprise communications and networking. INTERNET delivers a suite of services that allows its customer to be able to:

- gain access to various repositories of information (local/ regional/global)
- facilitates the delivery and exchange of information
- conduct business with each other electronically
- communicate electronically.

Internet Service delivers a full range of connectivity to the INTERNET, a network of networks reaching more than 11,000 networks (connecting over 3.2 million servers) and 22 million users, thereby allowing INTERNET customers to reach beyond any particular local serving area.

Customers connecting to the INTERNET come from virtually all segments of the market. Our service, Interact's INTERNET Service, is targeted, however, at the professional member of a community of interest who needs an easy to use managed service. Making information available that is appropriate for users' needs is key and unique to our service offering. Filtering and managing appropriate content for K-12 customers, for example, is key to their adoption of our service. Through the development of this platform, we have been able to create this type of managed service.

This plan contemplates providing local dial-up access to INTERNET at all USWC exchanges.

D. DISTANCE LEARNING PROPOSAL

This proposal provides three of the necessary components for Distance Learning applications: desktop video equipment, which can be used for video conferencing and information services access (this part of the proposal may be modified based on discussions with various state agencies, including the Bureau of Information Technology); a discount on State Telecommunications Services which can be

passed along to educational entities for network connections; and a grant for a Teacher Network that will help in funding training for use of technology.

Switched Interactive Video:

This part of the proposal provides a desktop video system to each of the public schools in U S WEST served territory in South Dakota. The service would be comprised of a Microsoft Windows based PC and a PictureTel PCS 100 desktop video system. The service would utilize U S WEST ISDN service. We would include a 16-port video bridge also manufactured by PictureTel.

The PC would be acquired to provide the platform for the interactive video service. The PCS 100 operates as an additional card in the PC and integrates two ISDN B channels to provide 128 Kbps of bandwidth. The PCS 100 conforms to the national standard H.320 for video conferencing and is compatible with all other standards compliant digitally compressed video equipment. It can also be used for other PC-based applications that use a Windows operating system.

The PCS 100 system includes a Flip cam dual purpose camera, video board, an audio board, a full duplex speakerphone, a camera stand, cables, conference control and information sharing software and documentation. The system includes additional video ports and can be used with standard NTSC equipment.

In addition to the PCS 100, a 16-port video bridge is included to provide the ability to connect more than two systems on the same video call. The bridge would be the central point that users would dial in order to connect to multipoint sessions.

The PCS 100 and ISDN is an excellent low cost method to provide interactive video for distance learning.

Master Service Agreement:

Currently under development is a Master Service Agreement between U S WEST and the State of South Dakota. The service agreement would provide a discount for all services purchased by the State from U S WEST. The State could then act as a purchasing agent for schools and use the discount to help defray the cost to the schools of their network connections. Currently the State of South Dakota is responsible for approximately $5,000,000.00 in annual billed revenue. A 5 to 7 percent discount is anticipated.

Foundation Assistance for Training:

The U S WEST Foundation, in aligning more closely with U S WEST's overall mission, is focusing on providing grants using telecommunications technology to connect people.

A three-year grant in the range of $300,000-$350,000 from the U S WEST Foundation would allow school districts and teachers within the South Dakota U S WEST serving territory access to a wide variety of local, regional and world-wide telecommunication possibilities. This would replicate a grant to provide laptop computers and technology training for over 300 Colorado teachers recently awarded by the U S WEST Foundation to the University of Colorado. Through collaborative efforts with Dakota State University in Madison, known for its computer technology expertise, and the State of South Dakota Bureau of Information and Technology in Pierre, a low-cost, locally-controlled and integrative telecommunications system with training, equipment and technological back-up would be established.

During the first year of the project, Dakota State University would establish a U S WEST Center for Instructional Technology within the Business and Education Institute. This center would continue to draw upon faculty expertise in Computer Science, Information systems and the School of Education to develop summer workshops, conduct training sessions, host seminars and promote the utilization of instructional technology in K-12 schools - all focused on telecommunications technology in education. A training package for teachers and administrators would be developed to provide education and training in the use of telecommunications technology, with college credit being given to training participants.

U S WEST served school districts in close proximity to Madison would be selected the first year to participate in this project. Each district would be provided with a computer, and multimedia connectivity as an incentive to participate. Those districts would demonstrate and implement a plan to expand this educational opportunity to other teachers and administrators in their districts. Additional districts would be selected in year two and, in year three, all U S WEST served districts would participate.

Partnerships would also be formed with Black Hills State University and the University of South Dakota in order that preservice teachers and inservice teachers receive the technology training in an equitable and cost-effective manner. Dakota State University will work closely with DECA, the South Dakota National Science Foundation Systemic Initiative and the School Modernization Project.

An "education computer network" that supports Internet access, World-Wide-Web access, electronic mail, local list serve functions and exchange of administrative reports and information would be established. Connection to this resource will be provided in conjunction with the state's digital network.

E. TIME FRAME FOR CAPITAL DEPLOYMENT

	Capital Deployment Begin	End
1. CLASS	1996	1997
2. Single Party Service	1996	2000
3. South Dakota Infrastructure Plan		
SMAS (Special Metallic Access Systems)	1996	1998
DACS (Digital Access & Cross Connect System)	1996	1999
SONET Multiplexers	1996	1998
Frame Relay	1996	1997
ATM Switches	1996	1997
Local Fiber Distribution	1996	1999
RSM (Remote Switch Modules)	1996	1997
Internet Service	1995	1996
4. Distance Learning	1996	1996

Note: The detailed sequence of deployment for these individual enhancements will be developed mutually with the customer (in most cases, the State of South Dakota). The estimated value of these investments is approximately $25 million.

EXHIBIT
6

April 1, 1998

Dear Public Utility Commission:

We, as members of the Willow Lake School education system, are writing this letter in concern for the well-being of our Carpenter students. The internet has become an intricate part of our world and it is to our understanding that they cannot receive access in Carpenter with the current services that you provide. Students are given assignments in a wide variety of classes that involve usage of internet research, but Carpenter students cannot do this at home. They are not given the same opportunities as the other students in our school district. We ask that you do something about this.

Thank you for your consideration regarding this matter. We hope that you will really consider our children and provide the services.

Sincerely,

Willow Lake School Staff

Cheryl L. Berens
Cindy Warkenthien
Chris Sabor
Nadine Sabor
Kenneth Poppen
Larry J. Buchem
Kerry Stobbs
M Hinkley
Paul Miller
Kathleen Wookey
Angie Bratland
Judy Fetkestad
Paul Wurle
Kathy Poppen

I live in the Carpener area and use US West telephone lines. I am directly affected by the problems with those lines. My concerns include the danger involved when phone lines are not working, the inability to access Internet, the unavailability of extra lines, and the poor quality of these lines. I am also concerned that the problems with these phone lines make it difficult for businesses, like the Willow Lake Farmers Elevator, to operator in an efficient and technologically advanced way and therefore affect the economic well-being of our community.

EXHIBIT 7

Date	Name (Print)	Address	Signature
3-9-98	Harold Walter	41174 193rd ST	Harold Walter
3-10 98	CHARLES BREDE	Carpenter SDak	Charles Brede
3-10-98	Russ Madsen	Carpenter SD	Russ Madsen
3-10-98	Jeff Grann	Carpenter SD	JEFF GRANN
3-10-98	Terry Wicks	Carpenter SD	Terry Wicks
3-10-98	Stephanie Wicks	Willow Lake Carpenter	Stephanie Wicks
3-10-98	Valerie Madsen	PO Box 123 Carpenter SD	Valerie Madsen
3-10-98	Sherry Brede	P.O Box 152 Carpenter	Sherry Brede
3-10-98	Kim Madsen	PO Box 123	Carpenter SD Kim Madsen
3-10-98	Mike Waldner	R.I Box 61	Carpenter SD. Mike Waldner
3-10-98	Mary Opsahl	P.O. Box 194	Carpenter SD MARY OPSAHL
3-10-98	Dakota Farms Int	41178 193rd St carpenter 605 7322	Jeff Wicks
3 10 98	Jessica Grann	HCR1 Box 31A	Carpenter Jessica Grann
3 10 98	Crystal Grann	HCR Box 31A	Carpenter Crystal Grann
3-11-98	Kirk Madsen	HCR1 Box 25	Carpenter Kirk Madsen
3-11-98	Jared Bopper	Agronomist and	Carpenter Area
3-11-98	Jon Grann	HCR1 Box 31	Carpenter Jon Grann
3-11-98	Brian Helkenn	HCR1 Box 25	Carpenter Brian Helkenn
3-11-98	Taren Madsen	HCR1 Box 22	Carpenter [illegible]
3-11-98	DEAD BREDE	Box 152	CARPENTER SD Brad Brede

I live in the Carpener area and use US West telephone lines. I am directly affected by the problems with those lines. My concerns include the danger involved when phone lines are not working, the inability to access Internet, the unavailability of extra lines, and the poor quality of these lines. I am also concerned that the problems with these phone lines make it difficult for businesses, like the Willow Lake Farmers Elevator, to operator in an efficient and technologically advanced way and therefore affect the economic well-being of our community.

Date	Name (Print)	Address	Signature
3-10-98	Tim Walter	41178 193rd st carpenter	[illegible]
3-13-98	Judy Glanzer	HC1 Box 4 Carpenter	Judy Glanzer
3-13-98	STEVEN GLANZER	HC1 Box 4 carpenter	Steven Gla
3-13-98	JIM OPSAHL	HC 1 Box 6 CARPENTER S.D.	James Opsahl
3-14-98	Lynn Nelson	RR1 Box 586 Iroquois	Lynn Nelson
3-14-98	Fergus L Nelson	HCR 121 Carpenter	Fergus L Nelson
3-14-98	Randy L Nelson	HCR 121 Carpenter	Randy L Nelson
3-17-98	Kim K. Waldner	HC1 Box1 Carpenter	Kim K Waldner
3-17-98	Katie L. Waldner	HCR Box1 Carpenter	Katie Waldner
3-18-98	Kim Nelson	HCR1 Box 121 Carpenter	Kim Nelson
3-18-98	Aaron Wicks	HCR1 Box 1B Carpenter	Aaron Wicks
3-18-98	Dave [illegible]	HR2 Box 45 Carpenter	[illegible]
3-21-98	Ellery Waldner	HR1 Box 110 Carpenter	Ellery Waldner
3-21-98	Kendall Waldner	HC1 Box 110 Carpenter	Kendall Waldner
4-1-98	Gary Gilbert	18807 406 AVE Carpenter SD	Gary D Gilbert

EXHIBITS 8, 9 AND 10 ARE LARGE MAPS. THEY ARE IN THE TRANSCRIPT IN DOCKET TC98-007. WE HAVE NOT REPRODUCED THEM TO PUT WITH THE OTHER TRANSCRIPTS - TC98-008-012 AND TC98-016.

BOYCE, MURPHY, McDOWELL & GREENFIELD, L.L.P.
ATTORNEYS AT LAW

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Of Counsel
John R. McDowell

J.W. Boyce (1884-1915)
John S. Murphy (1924-1966)

April 13, 1998

RECEIVED
APR 14 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Rolayne Ailts Wiest
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Re: Carpenter Complaints (TC98-007-12 and 98-016) and Hofer Complaint (97-178)
Our File No. 2104-98-007 and 97-178

Dear Rolayne:

We received the transcripts of the April 2nd hearings on the above matters today. It is my understanding that our brief and proposed findings of fact and conclusions of law will be due ten business days from today (April 27th). Please confirm whether my understanding is correct.

Sincerely yours,

BOYCE, MURPHY, McDOWELL &
GREENFIELD, L.L.P.

Thomas J. Welk

TJW/vjj

cc: Jon Lehner



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

April 15, 1998

Mr. Thomas J. Welk
Attorney at Law
Boyce, Murphy, McDowell & Greenfield L.L.P.
P. O. Box 5015
Sioux Falls, SD 57117-5015

Re Hofer Complaint (Docket TC97-178)
Carpenter Complaints (Dockets TC98-007-012 and TC98-016)

Dear Tom:

This is to acknowledge receipt of your letter dated April 13, 1998, with reference to the above captioned matter. Your understanding is correct. Your brief and proposed findings of fact and conclusions of law are due on April 27, 1998.

Very truly yours,

Rolayne Ailts Wiest
General Counsel

RAW:dk
Enc

Capitol Office
Telephone (605)773-3201
FAX (605)773-3809

Transportation/
Warehouse Division
Telephone (605)773-5280
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

TTY Through
Relay South Dakota
1-800-877-1113

Internet
billh@puc.state.sd.us

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Chairman
Pam Nelson
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Sue Cichos
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Marlette Fischbach
Shirleen Fugitt
Lewis Hammond
Kaye Hartford
Lesa Healy
Cameron Hoseck
Dave Jacobson
Bob Knadle
Delaine Kolbo
Jeffrey F. Lorensen
Terry Norum
Gregory A. Rislov
Tammi Stangohr
Steven M. Wegman
Rolayne Ailts Wiest

BOYCE, MURPHY, McDOWELL & GREENFIELD, L.L.P.
ATTORNEYS AT LAW

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APR 28 1998
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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Robert R. McDowell

J.W. Boyce (1884-1915)
John S. Murphy (1924-1966)

April 27, 1998

FAX Received APR 27 1998

VIA FACSIMILE - 605-773-3809

Mr. William Bullard, Jr., Exec. Dir.
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Re: In the Matter of Complaints Filed by The Willow Lake Elevator (TC98-007), Galen Waldner (TC98-008), Dick Glanzer (TC98-009), Regan Glanzer (TC98-010), Mike Madsen (TC98-011), Claude Glanzer (TC98-012) and Keith Glanzer (TC98-016) Against U S West Communications, Inc. Regarding Telephone Line Location
Our File No. 2104-98-007

Dear Mr. Bullard:

Please find enclosed U S WEST's Post Hearing Brief, Proposed Findings of Fact & Conclusions of Law and Notice of Filing of Late Filed Exhibit together with the original Request for Confidential Treatment of Information without attached documents.

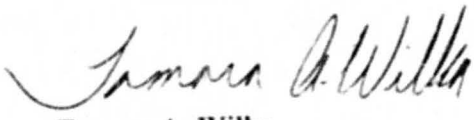
Seven (7) originals of the Findings, Brief and Notice of Late Filed Exhibit and ten (10) copies of each are being mailed to you today together with the original Certificate of Service and Request for Confidential Treatment of Information (with attached documents).[1] Please put one set of originals in each of the Carpenter files.

---

[1] I am sending only one original of the Request for Confidential Treatment of Informatin with attached documents pursuant to my telephone conversation today with Rolayne Wiest.

Sincerely yours,

BOYCE, MURPHY, McDOWELL &
GREENFIELD, L.L.P.



Tamara A. Wilka

TAW/vjj
Enclosures
cc: James Gallegos
Jon Lehner

FAX Received APR 27 1998

RECEIVED
APR 27 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-007**
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-008**
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-009**
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-010**
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-011**
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-012**

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

U S WEST'S POST HEARING BRIEF

Preliminary Statement

For purposes of this memorandum, the South Dakota Public Utilities Commission will be referred to as the "Commission", U S WEST Communications, Inc. as "U S WEST", and the Hearing Transcript as "Tr." followed by the appropriate page number.

Status of the Case and Facts

The statute of the case and the relevant facts are adequately presented in the proposed findings and conclusions attached to this brief.

Argument

1. The evidence clearly establishes that U S WEST provides good quality voice grade service in the Carpenter area.

In making findings of fact, the Commission must consider all of the evidence. See Sopko v. C & R Transfer Co. and Home Insurance Co., 1998 SD 8 ¶s 6 and 7. When all of the evidence is considered, it is clear U S WEST provides good quality voice grade service in the Carpenter area.

During the hearing the complainants were questioned at length under oath about their telephone service. Without hesitation, they testified that their primary concern involves the transmission of data:

Mr. Welk:	[Y]our complaints, as I understand today in listening to you, are all related to data transmission problems; is that correct?
Mrs. Grann:	Yes.
Mr. Welk:	And you're not complaining about voice quality. You're complaining about the data capabilities of the line you have; is that correct?
Mrs. Grann:	That's correct.
* *	* *
Mr. Welk:	So your basic complaint, as I understand it, you want access to the Internet to run your computer and to also help with your business; is that correct?
Mr. Waldner:	Right.

Tr. at 18, 44 (emphasis added). See also Tr. at 62. It is settled law that a party cannot claim a version of the facts more favorable than his or her own testimony. Guthmiller v. South Dakota Dept. of Transp., 502 N.W.2d 586, 589 (S.D. 1993); State v. Jacobson, 491 N.W.2d 455 (S.D. 1992); Trammell v. Prairie States Ins. Co., 473 N.W.2d 460, 463 (S.D. 1991); Waddell v. Dewey County Bank, 471 N.W.2d 591, 595 n.3 (S.D. 1991); Lalley v. Safway Steel Scaffolds, Inc., 364 N.W.2d 139, 141 (S.D. 1985); Myers v. Lennox Co-op Ass'n, 307 N.W.2d 863 (S.D. 1981); Swee v. Myrl & Roy's Paving, Inc., 283 N.W.2d 570 (S.D. 1979).

Consistent with the testimony cited above, U S WEST's service records show that since 1978 there have only been ten cases of reported trouble in the Carpenter area which relate to something other than Caller ID or Internet access, both of which involve data

transmission. Tr. at 146. This averages out to just one complaint every two years. There are 124 subscribers served by the Carpenter SLC 40 system. Tr. 139.

2. U S WEST is required only to provide voice grade service.

U S WEST is a local exchange carrier that provides local exchange service to the complainants. Local exchange service is defined as "the access and transmission of two-way switched voice communications within a geographic territorial unit established by a telecommunications company for the administration of telecommunications services . . . ." SDCL 49-31-1(5) (emphasis added). It does **not** include data transmission or Internet access.

U S WEST is currently providing good voice grade service to the Carpenter area. Nothing more is required.

3. If the Commission orders US WEST to replace the existing telephone system in Carpenter, it must provide a fair rate of return on U S WEST's investment.

It is undisputed that if U S WEST were to replace the SLC 40 system serving Carpenter with an NEC system, it would cost $211,000. Tr. at 147. It is similarly undisputed that if the Commission were to order U S WEST to install a NEC system[1] and ISDN cards, the new system would be consistent with Governor Janklow's Vision Bill, SDCL 41-31-60 et seq., which was passed last year. Tr.at 257.

SDCL 41-31-60 provides, in relevant part:

> It is the intent of the Legislature that all of the future rules, policies, actions and decisions of the State of South Dakota and all of its political subdicisions, and the actions and decisions of its offices and employees, shall be made consistent with and

---

[1] Although referred to in the singular, U S WEST would actually have to install three NEC systems to serve the Carpenter area. Tr. at 182.

> further the purposes and directives of §§ 49-31-60 through 49-31-68, inclusive. Any rule, policy, action, decision, or directive from a regulatory agency shall consider inpute from common carriers, including local exchange carriers, and others; allow economic deployment of technology; encourage maximum cooperation among facilities providers; and consider a fair return on the investment made by facility providers to implement § § 49-31-60 through 49-31-68, inclusive.

(emphasis added). The Commission has no discretion. It must provide a fair rate of return on U S WEST's investment.

4. Revenue from Carpenter subscribers for residential, business and Caller ID services are not adequate to provide a fair rate of return to U S WEST to upgrade facilities to the complainants.

The rate for residential service in Carpenter is $16.55.[2] Tr. 214. The rate for business service in Carpenter is $32.45. Id. U S WEST charges $5.95 per month for Caller ID. Tr. at 214. If U S WEST were to replace the SLC 40 system, the only **additional** revenue generated would be from Caller ID.. If twenty-five percent of the Carpenter subscribers (the statewide average) bought Caller ID, the annual revenue would be only $2,214.

Revenue from Carpenter subscribers for residential, business and Caller ID services isare not adequate to provide a fair rate of return to U S WEST to upgrade facilities to the complainants. Thus, if the Commission orders U S WEST to replace the Carpenter telephone system it must provide a cost recovery mechanism.

---

[2] This rate is below the average statewide cost to provide residential service of $21.00. Tr. at 215.

Dated this 27th day of April, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL &
GREENFIELD, L.L.P.
P.O. Box 5015
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FAX Received APR 27 1998 RECEIVED
APR 27 1998
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-007**
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IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-009**
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-010**
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-011**
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-012**

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

U S WEST'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

In January, 1998, a number of individuals from Carpenter, South Dakota and the Carpenter branch of the Willow Lake Elevator filed complaints with the Public Utilities Commission (Commission) against U S WEST Communications, Inc. ("U S WEST") requesting that the Commission order U S WEST to upgrade its facilities. The Commission issued separate orders finding probable cause and notice requiring answer. U S WEST filed a consolidated answer on March 5, 1998. It subsequently moved to amend its answer. The motion was granted and U S WEST filed a consolidated amended answer on March 27, 1998.

The Commission assumed jurisdiction pursuant to SDCL 49-13-1, 49-13-4, 49-13-13, 49-13-14.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11 and ARSD 20:10:01:08.01 and 20:10:01:09.

On or about March 16, 1998, Staff served its First Data Request. The following day it served additional data requests. On March 23, 1998, U S WEST moved to quash the data requests. In addition, it filed a Motion to Preclude Staff from Participating in Hearing and Motion to Take Judicial Notice. The Commission denied all three motions. Hearing Transcript at 6-8.

The complaints were consolidated for purposes of hearing and a hearing was held on

April 2, 1998 in Huron, South Dakota. Hearing Transcript at 9. Fourteen (14) witnesses testified and ten (10) exhibits were received during the hearing. Two exhibits were received as late-filed exhibits.

After consideration of all of the evidence received, the written arguments of counsel, the Commission now makes the following:

FINDINGS OF FACT

1. U S WEST is a Colorado corporation providing local exchange telecommunications service, interexchange carrier access, intraLATA interexchange telecommunications services, and other telecommunications services throughout South Dakota.

2. Docket TC98-007 involves a complaint filed by the Willow Lake Elevator ("the Elevator"). The Elevator has several remote locations including Carpenter. TC98-007 Complaint. It requests that the Commission require U S WEST to replace its current telephone system in Carpenter to improve communications in the area. It also requests a local dedicated line from Carpenter to Willow Lake.

3. The Elevator is in the process of installing a new fully integrated, on line, real time computer system.

4. Approximately five years ago, the Elevator installed a point of sale computer system in each of its remote locations. At the Carpenter location, the program was set up to automatically transmit data via a modem to the Elevator's main office each night. The program never worked in Carpenter due to connection difficulties. Ultimately, the Elevator

transferred the data on disks. Tr. at 9-10.

5. In March, 1997, the Elevator contacted U S WEST and requested a four-wire, two-way communication dedicated leased line between Carpenter and Willow Lake. Initially the Elevator was told there would be a one-time hookup fee of $450 and a monthly charge of $161.45. Tr. at 10. It later learned there would be excess construction charges of $50,000 because the lines in the Carpenter area were obsolete. Id. at 11.

6. In lieu of leasing a dedicated line, the Elevator could utilize random dial up. If this option were pursued, the Elevator would incur charges from U S WEST and Intrastate Telephone Company, Inc. ("ITC"). ITC provides local exchange service to subscribers in Willow Lake. These charges would include a combined hookup fee of approximately $700 and a combined monthly charge of approximately $320. Id. at 20. The Elevator has rejected this option as cost prohibitative. Id. at 20-21.

7. All of the Elevator's complaints relate to data transmission problems as opposed to voice quality. Id. at 18.

8. Docket TC98-008 is a complaint filed by Galen Waldner. Mr. Waldner tried unsuccessfully to hook up to the Internet in December, 1997. Mr. Waldner requests that the Commission order U S WEST to install new phone lines in the Carpenter area to assist in the transfer of data. TC98-008 Complaint.

9. Mr. Waldner has experienced no major problems with voice quality. Tr. 44-45.

10. Mr. Waldner's basic complaint concerns data transmission. He wants access to the Internet to run his computer and to assist him with his agriculture and insurance

businesses. Tr. at 44, 40.

11. TC98-009 is a complaint by Dick Glanzer. Mr. Glanzer's complaint is similar to Mr. Waldner's. He too has tried unsuccessfully to access the Internet. Tr. at 50-51.

12. Mr. Glanzer testified that he was informed U S WEST does not guarantee a baud rate over 1,200 and that this was probably why he was unable to connect to the Internet. Id. at 53-54.

13. Access to the Internet is Mr. Glanzer's biggest concern. Id. at 58.

14. Mr. Glanzer has never made any complaints regarding his voice grade service. Id. at 52.

15. Mr. Glanzer and Mr. Waldner are both members of the Willow Lake Elevator's Board of Directors. Id. at 17 and 52.

16. TC98-010 is a complaint by Regan Glanzer. He wants Caller ID. Id. at 61. Caller ID involves data transmission.

17. The Carpenter system has insufficient band width to accommodate Caller ID. Id. at 179.

18. Approximately 25 percent of U S WEST's South Dakota customers utilize Caller ID. Tr. at 220.

19. Regan Glanzer testified that he has not had any problems "to speak of" with voice grade quality service. Tr. at 62, 64. According to Glanzer, when on occasion he has called in a trouble report, U S WEST has fixed the problem in a timely manner. Id. at 67.

20. TC98-011 is a complaint by Mike Madsen. Mr. Madsen is the branch manager

at the Elevator. Tr. at 68.

21. Approximately ten years ago, Mr. Madsen reported a scratchy line. U S WEST sent a repairman who fixed the problem. Tr. at 73. Since then, Mr. Madsen has not reported any trouble on his personal line. Id. at 74.

22. Mr. Madsen wants Caller ID and Internet access. His complaint also states that he requested a second line but was informed by U S WEST that it could not accommodate his request. TC98-011.

23. During the hearing, Mr. Madsen testified that notwithstanding his assertion he has not requested a second line since he moved to his new address in 1986. Tr. at 72-73.

24. TC98-012 is a complaint by Claude Glanzer. Claude Glanzer has tried unsuccessfully to hook up to the Internet and Caller ID. Tr. at 82.

25. TC98-016 is a complaint by Keith Glanzer. Keith Glanzer has also tried, without success, to hook up to the Internet. He requests that the Commission "apply pressure to U S WEST to improve our phone lines so that we might have acceptable levels of data transmission." TC98-016 Complaint.

26. In addition to transmitting data via telephone lines, data may also be transferred via a wireless carrier such as a satellite-based system. Tr. at 107-15.

27. In South Dakota, the Sioux Falls Catholic Schools utilize a wireless carrier to access the Internet. Tr. at 108-109.

28. The telephone system serving Carpenter is a Subscriber Line Carrier 40 ("SLC 40") system. It consists of three remotes. Each system works off of a T line (or DS-1). A

T line is a four-wire circuit. Each remote is divided into forty (40) voice grade channels. Tr. at 137, 139.

29. There are 124 subscribers in the Carpenter area who are served by the existing telephone system. Tr. at 139.

30. Additional lines are available in the Carpenter area. Id. at 145.

31. The SLC 40 still furnishes good voice grade service. Id. at 149 and 162.

32. The SLC 40 has insufficient bandwidth for faxing and computer interconnection. Id. at 163.

33. The SLC 40 system is a newer system than the Anaconda system which serves Ben Hofer and was the subject of Docket TC98-178. Tr. at 137.

34. There are no additional lines available on the Anaconda system which serves Ben Hofer. Id. at 198.

35. U S WEST has agreed to replace the Anaconda system serving Mr. Hofer with an NEC system at a cost of $153,000. Tr. at 154.

36. If U S WEST were to replace the SLC 40 system serving Carpenter with an NEC system, it would cost $211,000. Id. at 147. Although U S WEST initially estimated the cost to be far less, it determined it could not use the existing repeater system because it is spaced too far apart. Thus, it would have to replace all 22 repeaters. Id. at 144.

37. The trouble history on the SLC 40 system serving Carpenter is "very minor" compared with the trouble on the Hofer line. Id. at 147.

38. Since 1978, there have only been ten cases of trouble relating to something

other than Caller ID or Internet access on the SLC 40 system in the Carpenter area. Id. at 146.

39. If the Commission requires U S WEST to replace the existing system serving Carpenter with a NEC system[1] and ISDN cards, the new system would be consistent with Governor Janklow's Vision Bill, SDCL 41-31-60 et seq., which was passed in 1997. Tr. at 257.

40. U S WEST charges $5.95 per month for Caller ID. Id. at 214.

41. If U S WEST were to replace the SLC 40 system, the only additional revenue generated would be from Caller ID.

42. If twenty-five percent (25%) (the statewide average) of the Carpenter subscribers bought Caller ID, the annual revenue generated would be only $2,214.

43. The SLC 40 system is able to carry calls utilizing a telecommunications device for the deaf. Exhibit 12 (late-filed).

44. The rate for residential service in Carpenter is $16.55. The average statewide cost to provide residential service is approximately $21.00. Id. at 214-15.

45. The rate for business service in Carpenter is $32.45. Id. at 214.

46. To the extent that any proposed finding of fact is more appropriately a conclusion of law, that finding is incorporated by reference as a conclusion of law.

---

[1] Although referred to in the singular, U S WEST would actually have to install three NEC systems to serve the Carpenter area. Tr. at 182.

Based upon the above findings of fact, the Commission makes the following conclusions of law:

CONCLUSIONS OF LAW

1. The Commission has personal jurisdiction over U S WEST and subject matter jurisdiction over these matters pursuant to SDCL Chapter 49-13.

2. These are contested case hearings under SDCL Chapter 1-26.

3. Pursuant to ARSD 20:10:01:15.01, the complainants have the burden to prove U S WEST committed an unlawful or unreasonable act, rate, practice or omission.

4. Local exchange service is "the access and transmission of two-way switched voice communications within a geographic territorial unit established by a telecommunications company for the administration of telecommunications services . . . ." SDCL 49-31-1(5). It does not include data transmission or Internet access.

5. Local exchange service is a noncompetitive service. SDCL 49-31-1.1.

6. U S WEST is a local exchange carrier that provides local exchange service to the complainants. In providing such service, U S WEST is only obligated to provide voice grade service.

7. The evidence by U S WEST and the admissions of the complainants establishes by a preponderance of the evidence that U S WEST currently provides good voice grade service in the Carpenter area.

8. If the Commission were to order U S WEST to replace the existing telephone system in Carpenter, it would cost $211,000.

9. The Commission concludes that the NEC system, as proposed by U S WEST, would be consistent with SDCL 49-31-60, et. seq. ("the Governor's Vision Bill").

10. The Commission must provide a fair rate of return on investment made by U S WEST to implement the Governor's Vision Bill.

11. U S WEST is entitled to a fair rate of return on the investment of $211,000 to upgrade facilities to the complainants.

12. Revenue from Carpenter subscribers for residential, business and Caller ID services is not adequate to provide a fair rate of return to U S WEST to upgrade facilities to the complainants.

13. To require U S WEST to replace the existing telephone system in Carpenter without providing the company with a fair rate of return on the investment of $211,000 would deny U W WEST just compensation in violation of Article VI §§ 2 and 13 of the South Dakota Constitution and the Fifth and Fourteenth Amendments to the United States Constitution.

14. The Commission concludes that the complainants have not met their burden of proof that U S WEST has committed an unlawful or unreasonable act, rate, practice or omission

15. To the extent that any proposed conclusion of law is more appropriately a finding of fact, that conclusion is incorporated by reference as a finding of fact.

Dated at Pierre, South Dakota, this _____ day of _____, 1998.

BY ORDER OF THE COMMISSION:

_____

JAMES A. BURG, Chairman

_____

PAM NELSON, Commissioner

_____

LASKA SCHOENFELDER, Commissioner

FAX Received APR 27 1998

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APR 28 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-007**
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-008**
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-009**
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-010**
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-011**
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-012**

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

NOTICE OF FILING BY U S WEST COMMUNICATIONS, INC. OF LATE FILED EXHIBIT

COMES NOW U S WEST Communications, Inc. and files the attached late filed exhibit (Exhibit 12) in response to Staff Counsel's inquiry about whether the TDD would work in Carpenter.

Dated this 27th day of April, 1998.

Thomas J. Welk
Tamara A. Wilka
BOYCE, MURPHY, MCDOWELL & GREENFIELD, L.L.P.
P.O. Box 5015
Sioux Falls, SD 57117-5015
(605)336-2424

Attorneys for U S WEST Communications, Inc.

State: South Dakota
Subject: 98-007, 98-008, 98-009, 98-010, 98-011, 98-012 and 98-016
Respondent: Russ Evans

Following the Commission hearing, I directed an investigation to determine whether a TDD would work on the SLC 40 system operating in the Carpenter area. Based on this investigation, I determined that a TDD will work on the Carpenter SLC 40 system.

FAX Received APR 27 1998

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APR 1998
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-007**
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TC98-016

REQUEST FOR CONFIDENTIAL TREATMENT OF INFORMATION

U S WEST Communications, Inc. ("U S WEST") requests pursuant to ARSD 20:10:01:41 that the attached documents be treated as confidential. In support of its request, U S WEST states as follows:

1. The attached documents (CAR 0001 - CAR 0292) are responsive, in part, to Staff's First and Second Data Requests in these dockets.

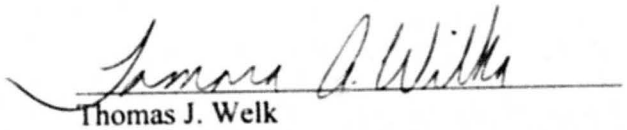
2. U S WEST requests that these documents be treated as confidential at all times and that they be returned to U S WEST when the Commission closes these dockets.

3. Contact: Colleen Sevold
address: U S West Communications, Inc.
125 S. Dakota Avenue 8th floor
Sioux Falls, SD 57104
telephone number: 605-335-4596

4. These documents constitute trade secrets and confidential business information and, as such, are confidential pursuant to SDCL 19-13-20 and ARSD 20:10:01:39.

5. These documents contain information which, if disclosed to competitors of U S WEST or others, could result in irreparable damage and injury to U S WEST.

Dated this 27th day of April, 1998.



Thomas J. Welk
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P.O. Box 5015
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(605)336-2424

Attorneys for U S WEST Communications, Inc.

Confidential

Information

is in Docket

TC 98-007

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED
APR 28 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	TC98-007
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IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

CERTIFICATE OF SERVICE

I, Tamara A. Wilka, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, and on the 27th day of April, 1998 true and correct copies of U S WEST's Proposed Findings of Fact & Conclusions of Law, Post Hearing Brief, Notice of Filing of Late Filed Exhibit and Request for Confidential Treatment of Information (without attached documents) were sent by U S mail, postage prepaid,

Willow Lake Farmers Elevator
Attn.: Doug Reggow, Gen. Manager
P.O. Box 227
Willow Lake, SD 57278

Galen Waldner
HCR Box 1
Carpenter, SD 57322

Dick Glanzer
HCR 1, Box 8
Carpenter, SD 57322

Regan Glanzer
41530 191st Street
Carpenter, SD 57322

Mike Madsen
HCR 1, Box 22
Carpenter, SD 57322

Claude Glanzer
41173 192nd Street
Carpenter, SD 57322

Keith Glanzer
19460 117th Street
Carpenter, SD 57322

Karen Cremer
SD Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Tamara A. Wilka



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

May 7, 1998

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Karen E. Cremer
Marlette Fischbach
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Katie Hartford
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Bob Knadle
Delaine Kolbo
Jeffrey P. Lorensen
Terry Norum
Gregory A. Rislov
Tammi Stangohr
Steven M. Wegman
Rolayne Ailts Wiest

Mr. Keith Glanzer
19460 417th Avenue
Carpenter, SD 57322

Re: Keith Glanzer Complaint Against U S WEST
Docket TC98-016

Dear Mr. Glanzer:

Enclosed you will find a copy of Staff's Response to U S WEST's Post Hearing Brief in the above captioned matter. This is intended as service upon you by mail.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

May 7, 1998

Mr. Jim Gallegos
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Mr. Thomas J. Welk and
Ms. Tamara A. Wilka
Boyce, Murphy, McDowell & Greenfield
P. O. Box 5015
Sioux Falls, SD 57117-5015

Re: Carpenter Complaints
Dockets TC98-007 through TC98-012 and TC98-016

Dear Counsel:

Enclosed each of you will find copies of Staff's Response to U S WEST's Post Hearing Brief in the above captioned matters. This is intended as service upon you by mail.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	)))))	STAFF'S RESPONSE TO U S WEST'S POST HEARING BRIEF TC98-016

STATEMENT OF THE CASE

A hearing was held on April 2, 1998, in the above-captioned matter. U S WEST Communications, Inc. (U S WEST) filed its post hearing brief on April 27, 1998. The South Dakota Public Utilities Commission Staff (Staff), by and through its undersigned counsel, submits this brief in response to U S WEST's Post Hearing Brief. References to the hearing transcript will be "Tr." followed by the appropriate page number.

ARGUMENT

U S WEST alleges in its brief that, "the evidence establishes that U S WEST provides good quality voice grade service in the Carpenter area." Staff would submit that the evidence clearly showed that good voice grade service is NOT provided in the Carpenter area.

The Public Utilities Commission (Commission) must consider all of the evidence when making its determination. U S WEST references just two witnesses' statements of the eight witnesses that testified and alleges that this established that U S WEST provides good quality voice grade service. Even the two statements used by U S WEST are taken out of context. In reality what the witnesses testified to is as follows:

Q. Ms. Cremer: Do you have problems with line noise?

A. Ms. Grann: The screeching, the static sounds that Mrs. Loewen was talking about this morning, that's common out there.

Q. Ms. Cremer: Okay. And for how many years has that been going on?

A. Ms. Grann: From personal experience out there, I'd say five anyway.

Tr. 24-25; see also page 18, lines 3-11.

• • • • • • • • • • • • • • • • • • • •

Q. Mr. Welk: On your voice line have you - - you haven't had any problems with the voice line, the lines that have gone into your home, have you?

A. Galen Waldner: Nothing major.

. . .

Q. Ms. Cremer: Mr. Waldner, when you said nothing major with your phone lines, what - -

A. Galen Waldner: Oh, occasionally you get a bad connection or something. And usually if I get a bad connection, we'll hang up and dial again and it's fine.

Q. Ms. Cremer: What do you mean a bad connection? You can't hear, or that screeching noise they're talking about?

A. Galen Waldner: Oh yeah, there's a lot of static or something on the lines and it isn't very audible.

Tr. 44.

• • • • • • • • • • • • • • • • • • • •

Q. Ms. Cremer: And has it ever gone out other than when the phone - - other than when the electricity is off, that you know?

A. Dick Glanzer: I can't pinpoint a certain time or date when it has happened. I believe, yes, it probably has.

Tr. 54.

. . .

Q. Ms. Cremer: Do you have problems with noise on the line?

A. Dick Glanzer: Yes. Occasionally there is either static on the line, or sometimes you can be talking to someone and actually hear another conversation in the background, somebody else talking.

. . .

Q. Ms. Cremer: Do you have any problem - - does the other person ever complain that they can't hear you or you can't hear them very well?

A. Dick Glanzer: Sometimes, yes.

Tr. 56.

* * * * * * * * * * * * * * * * * * * *

Q. Ms. Cremer: Has there been any other times when the electricity was working and your phone didn't work?

. . .

A. Regan Glanzer: Yes.

. . .

Q. Ms. Cremer: Do you ever have trouble hearing people on the other line, or them complaining that they can't hear you?

A. Regan Glanzer: At times.

Tr. 64-65.

* * * * * * * * * * * * * * * * * * * *

Mike Madsen: We do have a lot of voice problems with the phones. Tr.68.

. . .

And at that time I had asked him, you know about the double-talk and stuff we have been getting. And a lot of times he said the double-talk and things like that were caused by the moisture in the line or weather-related from, you know the moisture that we've had.

Tr. 69-70.

. . .

It's just that the phone doesn't ever give a full ring. Tr. 70.

. . .

As far as the voice part of it, I also asked the repairman that was in Carpenter that day why it was sometimes when we would - - when somebody would call in, why do we - - it sounds like - - sometimes sounds like they're talking in a tin can. And he kind of referred back to that as being the same thing as a moisture problem or moisture in the lines or something to that effect. Tr. 70.

. . .

Q. Ms. Cremer: Did you say you could hear others talking on your phone?

. . .

A. Mike Madsen: The wife has mentioned several times that they've been really scratchy and things like that.

Tr. 74.

. . .

Q. Ms. Cremer: You said you have had noise on the line?

A. Mike Madsen: Yes.

Tr. 79.

• • • • • • • • • • • • • • • • • • • •

Claude Glanzer: We've had the double-talk in the lines. We've had some static that, I guess, with the static and the noisy lines is something I've grown up and didn't pay much attention to that, I guess. Tr. 82.

. . .

Q. Ms. Cremer: Have you ever had any outages at your house?

A. Claude Glanzer: I guess the major one we mentioned earlier during the ice storm. There had been other ones just for a brief period of time.

Q. Ms. Cremer: And I'm just curious why don't you ever call every time your phone goes out and every time there's noise and any time there's double-talk or whatever else? Why don't you call U S WEST?

A. Claude Glanzer: Well, I guess a lot times it's just don't want to be a pain in the neck, I guess. It doesn't last, you know, real long.

Tr. 87-88.

. . .

Q. Ms. Cremer: The problem here is the quality of the phone lines themselves; is that right?

A. Claude Glanzer: Yes.

Tr. 89.

* * * * * * * * * * * * * * * * * * * *

Keith Glanzer: And like Claude said, you just kind of grow up knowing the phone isn't always going to be crystal clear, and it's usually there when we need it though. And over the years we've had different problems with noise on the line or double-talk. Just here the last couple of days in that storm two days ago, I was on the phone and just like that we were cut off. And I just assumed that there was a power outage or something. We didn't lose our phone service, but we were disconnected. And we do experience another voice on the line occasionally. Here a few years here we were having a pretty serious problem. You could actually listen to the people talking and understand them. And we reported that, and they came out and found the problem and fixed that. And it's been good for quite some time, but now again we're experiencing that again. I can hear a second voice on the line when we have conversation. Tr. 91-92.

As shown by the testimony of those who use the SLC 40 system in the Carpenter area, U S WEST is not providing good voice grade service. SDCL 49-31-1(19) defines local exchange service.[1] U S WEST states that it is not required to provide anything more than the bare minimum. It is Staff's position that U S WEST has failed to provide even the bare minimum that it is legally required to provide. At a minimum, U S WEST should be providing a band width of 300 to 3000 hertz.[2] If U S WEST was providing this level of band width in the Carpenter area, the complainants would be able to utilize CLASS services such as Caller ID. Caller ID requires 9600 bytes per second which would come within the perimeters of the 300 to 3000 hertz. Tr. 248. The testimony showed that the complainants were not able to utilize Caller ID. Tr. 61, 71, 82, 101. U S WEST's witness Russ Evans testified that the Carpenter system has insufficient band width to accommodate Caller ID. Tr. 179.

Steve Wegman, an analyst for the Public Utilities Commission, conducted a number of tests on the telephone lines used by the complainants. The results of these tests showed that in Pierre and Huron, over 400,000 bytes of information were sent in a five minute test and there were zero errors. The voltage at the RJ11 plugs was 49 to 50 volts. When the testing was conducted at Carpenter, two of the five lines would not even lock in so that testing could be conducted. The voltage on one line was 39 volts. The voltage on the other line was 42.9 volts. The remaining three lines were tested, however it showed

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[1] 49-31-1(19) "Local exchange service," the access and transmission of two-way switched voice communications within a geographic territorial unit established by a telecommunications company for the administration of telecommunications services. U S WEST incorrectly cites the definition throughout its brief as well as in its Findings of Fact and Conclusions of Law.

[2] Federal Communications Commission, In the Matter of Federal State Joint Board on Universal Service, CC Docket No. 96-45, rel. May 8, 1997, and the accompanying rules cited as 47 C.F.R. Part 54.

that only 12,000 bytes of information were sent and the error rate was 40% of that 12,000. The lowest voltage found on the remaining three lines tested at 37 volts which may not be enough voltage to ring the circuit. Tr. 249-251. As testified to by Mr. Evans, voltage on a service network interface should be 48 volts. Tr. 177.

FAIR RETURN ON INVESTMENT

Staff does not agree with U S WEST that the replacement cost of the SLC 40 system is $211,000. However for purposes of this docket, the actual cost of replacing the SLC 40 system is not the pivotal issue. Rather one of the issues to be addressed is what constitutes a "fair return on the investment made by facility providers," as that language is found in SDCL 49-31-60. Staff's position is that a fair return on investment does not equate to "rate of return" as is argued by U S WEST. Staff submits that U S WEST would receive a fair return on its investment through the additional revenues received due to the addition of CLASS services, second lines, Internet usage, the dedicated line that Willow Lake Elevator wishes to purchase, and other such telecommunications services if the SLC 40 system were upgraded.

Further, Judge Zinter found in In the Matter of the Establishment of Switched Access Rates for U S WEST Communications, Inc., Sixth Judicial Circuit, Civ. No. 97-462, that SDCL 49-31-60 applies only to cases where the facility provider is required to make an investment in order to implement §§ 49-31-60 through 49-31-68, inclusive. In the dockets regarding the Carpenter area, the Commission should order U S WEST to replace the SLC 40 system as necessary for the improvement of telecommunications service as well as for the safety, convenience and accommodation of the public. Tr. 27-28, 48-49, 58-59, 67, 80, 90, 100, 101.

Finally as noted by Judge Zinter, SDCL 49-31-60 only requires the Commission to consider a fair return on investment, it does not mandate an exact return.

CONCLUSION

The evidence shows that U S WEST is not providing adequate voice grade service in the Carpenter area, let alone "good" voice grade service. The complainants testified as to line noise, disrupted communications, partial ringing of the phone, static, double talk, cross talk, screeching, and unexplained outages. Despite U S WEST's attempt to portray this evidence as "good quality voice grade service," the facts tell a completely different story. "Good" is not good enough. U S WEST should be providing local exchange services that do not unjustly or unreasonably prejudice, disadvantage, or give preference to any person.

U S WEST is discriminating against its customers in the Carpenter area in violation of SDCL 49-31-11.[3] Pursuant to SDCL 49-31-7 and 49-31-7.1, the Commission should

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[3] § 49-31-11. Discrimination prohibited - Civil fine.

No person or telecommunications company may unjustly or unreasonably discriminate between persons in providing telecommunications services or in the rate or price charged for those services. No telecommunications company may offer a rate or charge, demand, collect or receive from any person a greater or lesser compensation for any telecommunications service offered than it charges, demands, collects or receives from any other person for providing a like telecommunications service. No telecommunications company may make or give any unjust or unreasonable preference or advantage to any person, nor unjustly or unreasonably prejudice or disadvantage any person, in the provision of any telecommunications service. Notwithstanding any prohibitions in this section, upon application to the commission, any telecommunications company may after investigation by the commission, be authorized by the commission to charge special rates or to give certain preferences which are determined by the commission to be fair and reasonable.

Nothing in this section applies to volume discounts or to the provision of telecommunications services at reduced rates for the United States, this state, local governments or governmental subdivisions.

Whoever violates any of the provisions of this section is guilty of unjust discrimination and shall be punished by a civil fine not less than one thousand nor more than five thousand dollars for each violation. Nothing in this section may alter or eliminate any remedy otherwise available to an injured party, including an injured party's right to initiate a suit against the company guilty of discrimination pursuant to § 49-13-14.1.

order U S WEST to replace the SLC 40 system as necessary for the improvement of telecommunications service as well as for the safety, convenience and accommodation of the public.

Dated this 7th day of May, 1998.

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
(605) 773-3201

CERTIFICATE OF SERVICE

I hereby certify that copies of Staff's Response to U S WEST's Post Hearing Brief were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the address shown below on this the 7th day of May, 1998.

Keith Glanzer
19460 417th Avenue
Carpenter, SD 57322

Jim Gallegos
Senior Attorney
U S WEST Communications, Inc.
1801 California Street, Suite 5100
Denver, CO 80202

Thomas J. Welk and
Tamara A. Wilka
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Boyce, Murphy, McDowell & Greenfield, L.L.P.
P. O. Box 5015
Sioux Falls, SD 57117-5015

Karen E. Cremer

Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

RECEIVED
MAY 13 1998
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-007**
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-008**
IN THE MATTER OF THE COMPLAINT FILED BY DICK GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-009**
IN THE MATTER OF THE COMPLAINT FILED BY REGAN GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-010**
IN THE MATTER OF THE COMPLAINT FILED BY MIKE MADSEN, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-011**
IN THE MATTER OF THE COMPLAINT FILED BY CLAUDE GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	**TC98-012**

FAX Received May 11 1998

IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE

TC98-016

AFFIDAVIT OF RUSS EVANS

STATE OF COLORADO)
:SS
COUNTY OF ARAPAHO)

I, Russ Evans, being first duly sworn, state:

1. I am employed by U S WEST Communications, Inc. ("U S WEST") as engineering manager for South Dakota and Nebraska.

2. I testified at the hearing in this matter.

3. The purpose of this Affidavit is to supplement my testimony.

4. I have reviewed Staff's Response to U S WEST's Post Hearing Brief ("Staff's Response"). Staff asserts that if U S WEST were providing a band width of 300 to 3000 hertz, the complainants would be able to utilize CLASS services such as Caller ID. Since they are not able to utilize Caller ID, Staff concludes that U S WEST is not providing a band width of 300 to 3000 hertz. Staff's assertion and the conclusion upon which it is based are untrue. The reason the complainants cannot utilize Caller ID is because they do not have on hook transmission. On hook transmission connects the complainants telephone sets directly to the central office so that the central office can send signals to the telephone even when it is on the receiver. In the SLC 40 system, the central office does not have connection to the subscriber until the set is picked up or off hook.

Dated this 11TH May, 1998.

R. L. Evans

Ross Evans

Subscribed and sworn to before me on this 11TH day of May, 1998.

NOTARY PUBLIC
DANIEL P. HALEY
STATE OF COLORADO

Notary Public - State of Colorado
My Commission Expires:
12-22-2000

BEFORE THE PUBLIC UTILITIES COMMISSION
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TC98-007

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TC98-016

CERTIFICATE OF SERVICE

I, Tamara A. Wilka, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, and on the 11th day of May, 1998 true and correct copies of the Affidavit of Russ Evans were sent by U S mail, postage prepaid, to the following at the following addresses:

Willow Lake Farmers Elevator
Attn.: Doug Reggow, Gen. Manager
P.O. Box 227
Willow Lake, SD 57278

Galen Waldner
HCR Box 1
Carpenter, SD 57322

Dick Glanzer
HCR 1, Box 8
Carpenter, SD 57322

Regan Glanzer
41530 191st Street
Carpenter, SD 57322

Mike Madsen
HCR 1, Box 22
Carpenter, SD 57322

Claude Glanzer
41173 192nd Street
Carpenter, SD 57322

Keith Glanzer
19460 117th Street
Carpenter, SD 57322

Karen Cremer
SD Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Tamara A. Wilka

Tamara A. Wilka

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY WILLOW LAKE ELEVATOR, WILLOW LAKE, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	)	FINDINGS OF FACT AND CONCLUSIONS OF LAW; NOTICE OF ENTRY OF ORDER TC98-007
IN THE MATTER OF THE COMPLAINT FILED BY GALEN WALDNER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	)	TC98-008
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IN THE MATTER OF THE COMPLAINT FILED BY KEITH GLANZER, CARPENTER, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING TELEPHONE SERVICE OUTAGES AND INADEQUATE SERVICE	)	TC98-016

On January 20, 1998, the Public Utilities Commission (Commission) received a complaint filed by the Willow Lake Elevator, Willow Lake, South Dakota (Complainant) against U S WEST Communications, Inc. (U S WEST). The Complainant stated: "The Willow Lake Elevator is in the process of installing a new fully integrated, on line, real time, computer system. We have several remote locations and one of those locations is Carpenter. The Elevator would like to have a fully dedicated, local line from Carpenter to Willow Lake. The two different telephone companies (ITC & U S WEST) said that this could not be done. We live a total of 14 miles from each other and are in the same county, yet we cannot communicate locally. Our business is expanding at a rapid rate over the past 4 years. In order for us to stay competitive we need to upgrade our computer equipment. We also need the ability to respond to the needs of our customers. This can only be done by improving our communications. The current communications is impeding our ability to find new customers in this area of the county. By being able to respond quickly to their needs, we will grow." The Complainant requests that the system be replaced with new cable (fiber optic or digital) to replace the old system. Complainant is also requesting a local dedicated line from Carpenter to Willow Lake.

On January 20, 1998, the Commission received a complaint filed by Galen Waldner, Carpenter, South Dakota, against U S WEST. Mr. Waldner wrote: "In December of 1997 we tried to hook up to the Internet partially for education benefits for my children and partially for our farming and insurance business. We could not get the Internet to work. We could get our information out but could not get the information back because of our phone lines. After talking to people from U S WEST they basically said our service was working well for voice and there was nothing they would do. For the educational benefits for my children and the well being of my business we would really like to see the phone lines improved." Mr. Waldner is requesting that U S WEST be required to put new phone lines in the Carpenter area.

On January 20, 1998, the Commission received a complaint filed by Dick Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "We tried to get on the Internet with 2 different providers, and after much time and aggravation found out that we were unable to get connected because of 'antique' phone lines. Can't take advantage of caller ID. When we have a power outage we also lose our telephone. This is dangerous in case of an emergency. Fax machines are extremely slow or sometimes don't work properly." Mr. Glanzer is requesting that U S WEST bury new phone lines in the affected area.

On January 20, 1998, the Commission received a complaint filed by Regan Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "I cannot get Caller ID as the phone lines are old and also cannot get in the Internet. Also when the electricity goes out the phone goes out so 911 services are gone." Mr. Glanzer has requested that steps be taken to correct the problem, to put in new phone lines or whatever it takes. Mr. Glanzer states that he pays the bill just like the other customers but does not receive the same services or as many options.

On January 20, 1998, the Commission received a complaint filed by Mike Madsen, Carpenter, South Dakota, against U S WEST. Mr. Madsen stated: "We cannot get Caller ID. Phone rings alot and when you answer, no one is there. Can't get our computer on the Internet. Phone connection is poor, have alot of double talk or alot of static. Would like to add a second line and phone company says we can't. When electricity goes out, phones die within a couple of hours so we can't even make emergency calls." Mr. Madsen is requesting that the phone lines be updated.

On January 20, 1998, the Commission received a complaint filed by Claude Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "The U S WEST telephone lines serving our farm cannot supply us with services that we are in need of and are being charged to us on our local phone bill. We cannot get Internet, Caller Id, and a second line. Noisy phone lines. If electricity is cut off '911' won't work." Mr. Glanzer is requesting that the phone lines be replaced or updated.

On January 30, 1998, the Commission received a complaint filed by Keith Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "We purchased a computer for home and business use in August of 1997. At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with U S WEST. U S WEST technicians checked our line and said it was fairly good considering our location. We also found out that a standard phone line does not have a guaranteed data rate. On Oct. 28, 1997, we ordered an ISDN line which the U S WEST salesperson told us was available. After repeated calls U S WEST told us on Jan. 8, 1998, that no ISDN line could be provided to us. I am a Pioneer Seed Salesperson and during this time Pioneer had the sales staff migrated to laptop PCs with on line communication with Pioneer. After receiving training and the laptop it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line. At this point in time U S WEST seems unwilling to upgrade the Slick 40 serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in U S WEST service area. I would ask the PUC that they would apply pressure to U S WEST to improve our phone line so that we might have acceptable
levels of data transmission."

On February 3, 1998, at its duly noticed meeting, the Commission reviewed all of the complaints except for Docket TC98-016. On February 10, 1998, at its duly noticed meeting, the Commission reviewed the complaint in Docket TC98-016. The Commission voted unanimously to find probable cause and served the complaints on U S WEST. U S WEST filed its Answer to Complaints on March 5, 1998.

By orders dated March 12, 1998, the hearing for all of the above-listed dockets was scheduled for April 2, 1998, at the Crossroads Hotel and Convention Center, Huron, South Dakota. The hearing was held as scheduled.

At its May 12, 1998, meeting, the Commission considered this matter. The Commission voted unanimously to find that U S WEST has committed an unreasonable or unlawful act, practice, or omission in its failure to provide to the Carpenter Complainants adequate telephone service. The

Commission ordered U S WEST to replace the current SLC 40 system in the Carpenter area with three NEC digital line carrier systems. The Commission found that this replacement is necessary for the improvement of telecommunications service in the Carpenter area and the convenience of the Complainants.

Based on the evidence and testimony presented to the Commission, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Complainant in docket TC98-007 is the Willow Lake Farmers Elevator. A branch of the Willow Lake Farmers Elevator is located in Carpenter, South Dakota [hereinafter referred to as Carpenter Elevator]. Tr. at 9. Crystal Grann, office manager for the Willow Lake Farmers Elevator in the Willow Lake location, testified on behalf of the Carpenter Elevator. Id. The Willow Lake Farmers Elevator is a 25 million dollar business, with a large part of the growth from the expanded trade area in and around Carpenter. Tr. at 10.

2. A point of sale computer system was set up at each of Willow Lake Farmers Elevator's three locations. Tr. at 9. The program never worked at the Carpenter Elevator so Ms. Grann contacted U S WEST to inquire about getting a four-wire, two-way communication dedicated leased line between Carpenter and Willow Lake. Tr. at 10. She was quoted a hook-up fee of $450.00 and a monthly charge of $161.45. Id. She asked to get this in writing and when two months later U S WEST had not responded, she called again and was eventually told that a leased line would cost $50,000.00 in extra construction because the lines in the Carpenter area were obsolete. Tr. at 11. The Carpenter Elevator currently uses a random dial-up method due to the prohibitive cost of the leased line. Id. It sometimes takes three to five times to make a connection, the quality varies, the data transfer is extremely slow, and the connection is sometimes broken. Tr. at 11, 12.

3. In order to provide the Carpenter Elevator with a dedicated line, U S WEST would have to run a separate new line from the Carpenter Elevator to the exchange boundary and then it would be powered from the Willow Lake central office which is operated by another local exchange company, ITC. Tr. at 11, 194-195. Normally, a dedicated line is run from the company's central office to the customer. Tr. at 193. However, this normal method of provisioning a dedicated line cannot be used with a SLC 40 system because it is incapable of effectively running data over the lines. Tr. at 194.

4. Due to the obsolete lines located in Carpenter, the Carpenter Elevator will not be able to fully use the new $80,000.00 computer system that will be in place in July. Tr. at 12. Ms. Grann stated that improved lines would help their economic development. Tr. at 27-28.

5. A company that the Carpenter Elevator does business with stated that it can connect to the Carpenter Elevator at only 2,400 baud on a good day, usually at 1,200 baud, and has been unable to connect at any speed down to 800 baud. Tr. at 13.

6. Although Ms. Grann stated that she was complaining about data transmission problems, she also stated that she has problems with disrupted communications and voice quality, but that they just put up with that. Tr. at 18. She said screeching and static sounds have been common for the last five years. Tr. at 24-25. U S WEST has fixed the problem but it is a temporary fix. Tr. at 26. The Carpenter Elevator is unable to get CLASS features such as Caller ID. Tr. at 27.

7. The Commission finds that the Carpenter Elevator is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality

such as screeching and static sounds; (2) disrupted communications; (3) slow and inadequate data transmission; (4) inability to receive a dedicated line from the central office; (5) inability to receive CLASS services; and (6) inability to effectively use its new computer system.

8. Galen Waldner, the Complainant in Docket TC98-008, lives a quarter mile from Carpenter. Tr. at 39, 41. He could not get the Internet hooked up at his home. Tr. at 39-40. He got a second line to use for the Internet which he is currently paying for but it is not being used due to his inability to access the Internet. Tr. at 42. He wanted access to the Internet for his business and for his children. Tr. at 44, 46. He attempted to find out why he could not access the Internet by calling U S WEST but they were unable to give him an answer. Tr. at 43.

9. Galen Waldner occasionally would get a bad connection and experienced static and problems with audibility on his telephone line. Tr. at 44.

10. The Commission finds that Galen Waldner is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to access the Internet; and (2) occasional problems with his voice quality such as static and with audibility.

11. Dick Glanzer, the Complainant in Docket TC98-009, lives a few miles from Carpenter, South Dakota. Tr. at 50-51. He stated his biggest complaint was that he is unable to access the Internet and believes his children are disadvantaged as a result. Tr. at 50-51, 55, 58.

12. Dick Glanzer also stated that his telephone will not work when the power has been off for awhile. Tr. at 54. He occasionally has static on his telephone line, hears other voices talking on the line, or has trouble hearing the other person. Tr. at 56.

13. The Commission finds Dick Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to access the Internet; (2) telephone does not work when the power is out; and (3) problems with voice quality such as static, cross-talk, and audibility.

14. Regan Glanzer, the Complainant in Docket TC98-010, lives near Carpenter, South Dakota. Tr. at 61, 62. Mr. Glanzer wanted Caller ID. Tr. at 61. U S WEST stated that it was available in his area and sent out a Caller ID box but it did not work. Id. He has not had much trouble with his voice grade quality, but his telephone has been out of order a few times. Tr. at 62-64. He also has experienced problems with audibility. Tr. at 64-65. He requested that the line be updated and that he would be able to get Caller ID. Tr. at 66.

15. The Commission finds Regan Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to receive Caller ID; (2) telephone outages; and (3) problems with audibility.

16. Mike Madsen, the Complainant in TC98-011, resides in rural Carpenter, South Dakota. Tr. at 68. He is also the branch manager at the Carpenter Elevator. Id. He stated that he has a lot of voice problems with his telephone. Tr. at 68, 74. He believes that it is caused by moisture getting in the line. Tr. at 68. Once, when a construction crew cut a telephone line, they discovered the line was only four to five inches in the ground. Tr. at 69. Sometimes the telephone will only ring once even though there is still someone on the line. Tr. at 70. The telephone also does not work at times and this appears to be related to the weather. Id. In addition, it sometimes sounds like he is talking into a tin can when he uses his telephone. Id. He also hears others talking on the telephone. Tr. at 70.

17. Internet service providers have told Mr. Madsen that they have had little luck in hooking people up to the Internet in the Carpenter area. Tr. at 71. In addition, a family member, who lives on a farm next to Mr. Madsen's, was unable to obtain Caller ID. Tr. at 71, 81. Mr. Madsen was unable to call an elderly uncle to check on him during a blizzard because the telephones did not work. Tr. at 79-80.

18. The Commission finds Mike Madsen is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk and poor tone; (2) telephone outages; (3) telephone stops ringing even when someone is still on line; and (4) inability to access the Internet.

19. Claude Glanzer, the Complainant in TC98-012, lives a few miles from Carpenter, South Dakota. Tr. at 82-83. Although Russell Evans, U S WEST's engineering manager, stated that since Claude Glanzer was close to the SLC 40 system he would have more capability to use his computer, Mr. Glanzer stated that he was unable to get on the Internet. Tr. at 82, 132, 187-188, 244; U S WEST Exhibit 2. Mr. Glanzer believes his children are disadvantaged by not having access to the Internet and he is disadvantaged in his business also. Tr. at 86-87. He was also unable to get Caller ID. Tr. at 82.

20. Claude Glanzer has trouble with voice quality. Id. He hears cross-talk on the lines and static which sometimes causes him to have to hang up and try again. Tr. at 82, 87-88. He has also experienced telephone outages. Tr. at 87. He has not complained every time he has experienced a problem because he does not want to be a "pain in the neck." Tr. at 87-88. He has lived there all his life and has become accustomed to the problems. Tr. at 82, 88. He requested that the line be upgraded so he can use the Internet, obtain Caller ID, and improve the voice quality of the line. Tr. at 90.

21. The Commission finds Claude Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk; (2) telephone outages; (3) inability to obtain Caller ID; and (4) inability to access the Internet.

22. Keith Glanzer, the Complainant in TC98-016, lives seven miles from Carpenter, South Dakota. Tr. at 91. He has experienced problems with noises and cross-talk. Tr. at 92. A few years ago he could actually listen to other people talking on the telephone and understand them. Id. That problem was fixed but now the problem is recurring and he can hear other voices on the line again. Id. It is common for a caller to tell Mr. Glanzer that it is difficult to hear him over the telephone line. Tr. at 94. He stated that he often just puts up with the cross-talk and does not complain to U S WEST about it. Tr. at 96.

23. Keith Glanzer upgraded his computer so he could obtain access to the Internet but he was unable to receive access due to the telephone line. Tr. at 92-93. As a Pioneer sales representative he is supposed to use a laptop computer but it does not work due to the telephone line. Tr. at 93. As a result he had to return the computer. Tr. at 103. He needs reliable telephone lines for his economic livelihood. Tr. at 100. He attempted to obtain ISDN and U S WEST assured him he could receive ISDN. Tr. at 93. Three months later, however, U S WEST admitted it could not provide him ISDN. Id.

24. The Commission finds Keith Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk, noise, inability to hear people; (2) inability to obtain ISDN; (3) inability to effectively use his computer; and (4) inability to access the Internet.

25. Although U S WEST's records showed that ten cases of trouble were reported by the Complainants, these trouble reports did not include complaints concerning the inability to obtain Caller ID or effective use of computers. Tr. at 146. Moreover, some of the Complainants stated that they often did not complain about telephone problems because they did not want to be a bother or they had become accustomed to the problems. Tr. at 18, 87-88, 96.

26. Colleen Sevold, U S WEST's manager of regulatory affairs, stated that when she called all of the Complainants, with the exception of the Carpenter Elevator, she asked about their voice line quality and was told they did not have a problem, except for some outages. Tr. at 210-213. However, rather than relying on hearsay testimony, the Commission finds that it will rely on the direct testimony provided by the Complainants at the hearing which revealed that they did experience voice quality problems.

27. Russell Evans, U S WEST's engineering manager, stated that the Carpenter area is currently served by a Subscriber Line Carrier (SLC) 40 system. Tr. at 132, 133, 137. The entire SLC 40 system consists of three remotes and five systems with each system working off a DS-1 or a T-1 line. Tr. at 137. He stated that at each remote it is divided into 40 analog, voice grade channels, with 124 working lines and a capacity for 200 channels. Tr. at 137, 139, 145. There are 12 spare channels for the Carpenter area. Tr. at 148. The remote that feeds the Carpenter area is a mile and one-half south and two miles west of Carpenter. Tr. at 141.

28. The SLC 40 system has limited capabilities because the T-1 line is divided into 40 channels. Tr. at 140. The further away from the remote, the lower the baud rate. Id. If a person is able to get access to the Internet, it is very slow. Tr. at 140-141. ISDN is not capable of being provided on a SLC 40 system. Tr. at 141-142. In order to provide ISDN a new system would have to be constructed. Tr. at 142. The new system would consist of three NEC digital line carrier systems. Tr. at 148, 182.

29. Mr. Evans stated that a SLC 40 system is capable of providing voice grade service within the 300 to 3,000 hertz range. Tr. at 152, 164. However, after the filing of these seven complaints, he did not do any testing on the Carpenter lines to see if the lines were in fact operating within that range. Tr. at 165. He stated that the service network interface, which is where the drop terminates, should have a voltage of 48 volts. Tr. at 177.

30. Steve Wegman, analyst for the Commission, stated that SLC 40 systems had a short shelf life. Tr. at 249. The systems probably were not installed after 1982. Id. A SLC 40 system is a four byte, adaptive Delta modulation which does not pass data very well. Tr. at 246. He was not sure if a SLC 40 system operates between 300 to 3,000 hertz. Tr. at 248. However, he did state that 9,600 bytes per second equates back to 300 to 3,000 hertz for the bandwidth and that a SLC 40 system is unable to operate at 9,600 bytes per second. Tr. at 247.

31. Mr. Wegman did some limited testing in Pierre, Huron, and the Carpenter area. Tr. at 249. He used an MQT data grabber that checks modem speeds, signal to noise, dB loss, error rates, and bytes sent. Id. The modem takes digital signal data and converts it into a voice signal. Tr. at 255-256. The testing is referred to as the testing of data transmission or may be referred to as the testing of voice signal. Id.

32. The testing in Pierre showed zero error rates and the voltage at the plugs was 49 to 50 volts. Tr. at 250. He stated that the voltage rate was good because it should be at minus 48 volts dc or minus 49 volts. Id. In Huron the testing again showed no error rates with a voltage of minus 50 volts and minus 49 volts. Id.

33. In the Carpenter exchange he could not get a connection on two of the telephone lines. Id. He stated the voltage on those two lines was 42.9 volts and 39 volts. Tr. at 250-251. On the other three lines he tested he was able to connect but the error rate was over 40 percent. Tr. at 251. He stated that this error rate could be due to a SLC 40 condition or to a high signal loss rate which could lead to noise on the line. Id. The lowest voltage he received was 37 volts which may explain why the telephone may not ring correctly. Id. He stated that sometimes he had a good voice connection in the Carpenter area but that other times he did not, and said that could be dependent on what channel was being used at that time. Tr. at 262-263. He recommended that the SLC 40 system be replaced by an NEC system. Tr. at 253.

34. The Commission finds that the telecommunications system is producing an unacceptable error rate when tested. The Commission finds that some of the lines have unacceptably low voltage rates. The Commission finds that the telecommunications system in the Carpenter area is outdated and has not been shown to operate between 300 to 3,000 hertz.

35. U S WEST currently has 1,052 customers that cannot receive Caller ID. Tr. at 179. However, in U S WEST's investment plan U S WEST agreed to expand CLASS services "to all remaining USWC exchanges in South Dakota over two years." Exhibit 5, page 1. This would have required CLASS to be in all U S WEST exchanges by the end of 1997. Id. at page 10. Customers on a SLC 40 system are incapable of receiving Caller ID which is part of CLASS services. Tr. at 178-179. Ms. Sevold's interpretation of the language in the investment plan was that it "provides for the expansion of CLASS to all remaining U S WEST exchanges, not customer's exchanges, which to me would be the central office." Tr. at 226. However, an exchange encompasses a specific geographic area that is served by a local exchange company. There is no such thing as a customer exchange as opposed to a company exchange and an exchange is obviously not limited to central offices, it encompasses all of the customers within the exchange. Therefore, U S WEST has failed to provide CLASS services to all customers within its exchanges, including the exchange that encompasses the Carpenter area.

36. Children of the Complainants are disadvantaged by being unable to access the Internet at their homes. Tr. at 237. Teachers from the Willow Lake School District stated that students from the Carpenter area do not have the same opportunities as the other students in the school district. Tr. at 235-236; Exhibit 6.

37. The Commission finds that the telecommunications system that serves the Carpenter area is detrimental to the Complainants' economic well-being and also raises safety concerns.

38. The Commission finds that the telecommunications system that serves the Carpenter area is not providing reliable, adequate, telecommunications services. Specifically, the Commission finds that the telecommunications system is not providing adequate voice grade telecommunications services. The Commission further finds that the telecommunications system is providing inadequate and slow data transmission resulting in the inability of the Complainants to effectively use faxes and computers and the inability to access the Internet. The Commission finds that the telecommunications system is unable to provide ISDN and CLASS services.

39. The Commission finds that the Complainants are being provided inadequate telecommunications services and this is detrimental to the public interest. U S WEST has committed an unreasonable act or practice in its failure to provide the Complainants with an adequate, reliable telecommunications system.

40. U S WEST's costing model showed that to replace the system would cost around $211,000.00. Tr. at 143-144. Originally U S WEST stated it would cost around $55,000.00 but later

found out it would have to replace 22 repeaters and three separate NEC type cabinets which increased the cost to around $211,000.00. Tr. at 143-144, 167.

41. Although U S WEST claimed it could not recover this investment through rates charged to the Carpenter Complainants, rates charged to end users are not based on the costs of the infrastructure located within each exchange. U S WEST has traditionally recovered investments in infrastructure through averaged rates. The Commission recognizes that U S WEST is currently under price regulation and has agreed to price caps pursuant to its settlement agreement in Docket TC94-121, In the Matter of the Petition of U S WEST Communications, Inc. to have its Noncompetitive Services Regulated as Provided for in SDCL § 49-31-4.1. However, that settlement agreement does not provide that any future investments in infrastructure are to be recovered through rates charged to end users who specifically benefit from that infrastructure.

42. The Commission finds that due to the inadequate and unreliable telecommunications system currently in place in the Carpenter area, U S WEST shall replace that system with three NEC digital line carrier systems prior to the end of this construction season. The Commission finds the replacement is necessary to protect the public interest. The Commission finds the replacement is necessary for the improvement of telecommunications service and the convenience of the public. The Commission finds the replacement is necessary, reasonable, and expedient in order to promote the safety, convenience, and accommodation of the public.

43. The Commission rejects U S WEST's proposed Findings of Fact and Conclusions of Law.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and 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.

2. The Commission orders U S WEST to replace the current inadequate telecommunications system with three NEC digital line carrier systems.

3. Pursuant to 49-31-7, the Commission finds the replacement is necessary to protect the public interest. The Commission further finds that the replacement is necessary for the improvement of telecommunications service and the convenience of the public.

4. Pursuant to SDCL 49-31-7 and 49-31-7.1, the Commission finds the replacement is necessary, reasonable, and expedient in order to promote the safety, convenience, and accommodation of the public.

5. Pursuant to SDCL 49-31-7 and 49-31-7.1, the Commission orders U S WEST to complete the installation of three NEC digital line carrier systems in the Carpenter area prior to the end of this year's construction season.

6. The Commission rejects U S WEST's proposed Findings of Fact and Conclusions of Law.

It is therefore

ORDERED, that the Commission finds that U S WEST has committed an unreasonable rate or practice by its failure to provide the Complainants with adequate, reliable telecommunications service; and it is

FURTHER ORDERED, that U S WEST shall replace the current telecommunications system in the Carpenter area with three NEC digital line carriers prior to the end of this year's construction season.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 19th day of June, 1998. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 19th day of June, 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 Delaine Kolbo

Date 6/19/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg

JAMES A. BURG, Chairman

Pam Nelson

PAM NELSON, Commissioner

Laska Schoenfelder

LASKA SCHOENFELDER, Commissioner



South Dakota
Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

July 23, 1998

Ms. Colleen E. Sevold
U S WEST Communications, Inc.
125 South Dakota Avenue, 8th Floor
Sioux Falls, SD 57194

Re: Carpenter Complaints

Dear Colleen:

In accordance with the Request for Confidential Treatment of Information with reference to the Carpenter complaints, enclosed you will find the confidential information that was furnished to us.

Very truly yours,

Delaine Kolbo
Legal Secretary

Enc

Capitol Office
Telephone (605)773-3201
FAX (605)773-3809

Transportation/
Warehouse Division
Telephone (605)773-5280
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

TTY Through
Relay South Dakota
1-800-877-1113

Internet
billb@puc.state.sd.us

Jim Burg
Chairman
Pam Nelson
Vice-Chairman
Laska Schoenfelder
Commissioner

William Bullard Jr
Executive Director

Edward R. Anderson
Harlan Best
Martin C. Bettmann
Charlie Bollie
Sue Cichos
Karen E. Cremer
Marlette Fischbach
Shurleen Fugitt
Lewis Hammond
Katie Hartford
Leni Healy
Camron Hoseck
Dave Jacobson
Bob Knadle
Delaine Kolbo
Jeffrey P. Lorensen
Terry Norum
Gregory A. Rislov
Tammi Stangohr
Steven M. Wegman
Rolayne Ailts Wiest

U S WEST Communications
125 South Dakota Avenue 8th Floor
Sioux Falls, South Dakota 57194
Phone 605 339-5411
Fax 605 339-5390

Larry W. Toll
Vice President - South Dakota
Public Policy

U S WEST

December 30, 1998

RECEIVED
JAN 04 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Mr. William Bullard, Executive Director
Public Utilities Commission
State Capitol Building
Pierre, South Dakota 57501

FAX Received 12/30/98

Dear Mr. Bullard:

This letter will serve as notification to the Commission that the new systems have been installed in the Carpenter area and all customers served by the new systems have been cut over as of December 23, 1998.

If you have any questions, please call me at 605-339-5411.

Sincerely,

Larry Toll