

*K/0150.42.0

TC98-192

2724

TC98-192

DOCKET NO.

In the Matter of

IN THE MATTER OF THE COMPLAINT
 FILED BY GREG AND MARILYN BOLT,
 RAPID CITY, SOUTH DAKOTA,
 AGAINST MCLEOD USA
 TELECOMMUNICATIONS SERVICES,
 INC. REGARDING UNACCEPTABLE
 SERVICES

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
10/27 98	Received;
10/28 98	ocketed;
10/29 98	Weekly Filing;
11/24 98	Expurge of Rec Lead;
12/4 98	Order finding Probable Cause and Notice Requiring Answer;
12/28 98	Answer;
1/12 99	Order for appearance of Julian A. Deas as Respondent Attorney;
3/5 99	Order for and Notice of hearing;
5/5 99	Order dismissing Complaint and Closing Racket;
5/5 99	Racket Closed

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA
500 E. Capitol, State Capitol Building, Pierre SD 57501

TR 98-192
RECEIVED

OCT 27 1998

COMPLAINT

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Complainant(s): (Persons filing the complaint)		Respondent(s): (Persons or Company complained against)	
Name	Greg & Marilyn Bolt	Contact Person	
Address	1703 17th St	Company	MCLEAD USA.
City, State, Zip	Rapid City, SD 57501	Address	P.O. Box 3353
Home Phone	605-342-3679	City, State, Zip	Rapid City, SD 57501
Work Phone	Same	Work Phone	1-800-600-524063453
Cellular Phone	605-391-9684	Cellular Phone	3453
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.)

These are the facts giving rise to my complaint:

This complaint is against McLead USA. We called them on April 30th 98 asking for our service to be mailed to our new address. They said it would be done within a week. On the morning of May 9th we called them because we had not been moved & it was our last day at our old residence. They told us it would be connected on Monday May 11th. We said we could go the week-end with my phone. Monday came went with no phone. I began making calls Tuesday morning spending hours at a pay phone. Being told it was being taken care of we would have a phone by Wed. Wed noon still no phone. I then told them to drop my service that I no longer wanted service with them. I called U.S. West they told me that they would hook me up by Friday May 15th. Friday afternoon no phone. Called U.S. West they said McLead had not released my account. Called McLead told them to Fax the release. They didn't know it that could get done that day. Continued making many calls on Monday the 18th spending hours at a pay phone & not able to work on a roofing job. Finally by late afternoon on the 19th McLead told me a was no longer their customer. I was with U.S. West. we were able to get a phone by Friday May 22nd 98.

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 know we lost a \$10,000 job because of not having a phone. Plus other jobs and 10 hours of time spent at a pay phone and no phone for emergency reasons. We feel we lost a minimum of \$12,000.

NOTE: Please attach any additional pages, if necessary.

VERIFICATION

Complainant's signature must be witnessed by a notary public.

Marilyn Bolt 10-26-98
Complainant's Signature Date

State of South Dakota)
County of Pennington)

On this 26 day of October, 1998.

before me personally came and appeared Marilyn Bolt 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.

Cathryn Ness
Signature of Notary Public

(SAL)

My commission expires: March 2, 2002

RECEIVED

OCT 7 1998

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

We own a roofing bussiness & Spring & Fall are our bussiest seasons. We were not able to recieve our calls during this two week period. And therefore feel we lost a lot of bussiness during this time & many displeased costumers.

We also told the not to bill us for the month of May we have continued to recieve bills & they have now sent it to a collection agent. Saying we owe them \$29.00 for a mowe fee even though we did not recieve a phone.

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OCT 2 1998

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FAX TRANSMISSION from Consumer Affairs

To : William Haas

Company : McLeodUSA

Fax Number : 8-319-298-7901

Date : 10/27/98 Time : 9:07:04

From : Leni Healy

Company : South Dakota PUC

Fax Number : 605 773 3809

Pages including cover page : 4

Message:

We have received the following information from Greg & Marilyn Bolt in the form of a formal complaint.

Commission policy allows a brief time in which the parties may attempt an informal resolution. If such a resolution has been reached by 4 PM on October 29, please inform this Commission. If no resolution is reached by that time, the issue will become docketed and scheduled on an agenda for a Commission meeting.

THIS COMMUNICATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. If the reader of this message is not the intended recipient or the employee or agent responsible for delivering this communication to the intended recipient, you are hereby notified that any distribution, use or copying of this communication is prohibited.

South Dakota Public Utilities Commission

State Capitol Building; Pierre SD 57501

Telephone: (605) 773-3201 Fax: (605) 773-3809

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of October 23, 1998 through October 29, 1998

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing.
Phone: 605-773-3705. Fax: 605-773-3809

TELECOMMUNICATIONS

TC98-187 In the Matter of the Petition for an Order Directing U S WEST Communications, Inc., to File Updates to its Exchange and Network Services Catalog, Access Service Catalog, Advanced Communications Services Catalog, and Private Line Transport Services Catalog.

On October 26, 1998, Staff of the Commission petitioned the Commission to issue an Order requiring U S WEST Communications, Inc. to file updates to its Exchange and Network Services Catalog, Access Service Catalog, Advanced Communications Services Catalog and Private Line Transport Services Catalog.

Staff Attorney: Camron Hoseck
Staff Analyst: Harlan Best
Date Filed: 10/26/98
Intervention Deadline: NA

TC98-188 In the Matter of the Complaint filed by Donna Beitelspacher, Webster, South Dakota, against Buyers United Regarding Unauthorized Billing.

Complaint by Donna Beitelspacher vs. Buyers United. The Complainant claims that she was billed by ITC and Buyers United for the same calls. The Complainant states "more than once, I discussed this by phone with representatives of Buyers United. Several months ago, I received a billing from a collection agency. I responded telling them that I had evidence that the calls had been paid through ITC." The Complainant seeks the following relief: "I would ask that the PUC determine which company had the rightful claim to the payments, and that all collection claims be ended. I further would ask that records of this be removed from my credit record. Also, I do not feel that I should be assessed attorney/collection costs."

Staff Attorney: Karen Cremer
Consumer Affairs: Leni Healy
Date Filed: 10/01/98
Intervention Deadline: NA

TC98-189 In the Matter of the Complaint filed by Suzanne Hanson, McCook Lake, South Dakota, against CommChoice, LLC, Regarding Poor Quality of Service and a Request to be Served by U S WEST.

Complaint by Suzanne Hanson vs. CommChoice, LLC. The Complainant claims that confusion and poor service have lead her to file a complaint. The Complainant seeks the following relief: "We would like the approval of the PUC to allow U S WEST to bring service into the Deer Run Subdivision in McCook Lake, SD. Due to the nature of our businesses (general sales) it is imperative we have a dependable, quality oriented telephone service."

Staff Attorney: Karen Cremer
Consumer Affairs: Leni Healy
Date Filed: 10/19/98
Intervention Deadline: NA

TC98-190 In the Matter of the Application of ENHANCED COMMUNICATIONS NETWORK, INC. for a Certificate of Authority to provide intrastate telecommunications services in South Dakota.

Application by ENHANCED COMMUNICATIONS NETWORK, INC. to provide intrastate, interexchange telecommunications services in the State of South Dakota. ENHANCED COMMUNICATIONS is proposing to provide outbound intrastate interexchange service and prepaid calling card service within South Dakota.

Staff Attorney: Karen Cremer
Staff Analyst: Dave Jacobson
Date Filed: 10/28/98
Intervention Deadline: 11/12/98

TC98-191 In the Matter of the Application of Special Accounts Billing Group, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Application of Special Accounts Billing Group, Inc. for a certificate of authority to provide a full-range of resold 1+ interexchange telecommunications services in South Dakota. The services to be provided include MTS, out-WATS, in-WATS, and Calling Card services.

Staff Attorney: Camron Hoseck
Staff Analyst: Kylie Tracy
Date Filed: 10/28/98
Intervention Deadline: 11/13/98

TC98-192 In the Matter of the Complaint filed by Greg and Marilyn Bolt, Rapid City, South Dakota, against McLeod USA, Regarding Delayed Transfer of Service.

Complaint by Greg and Marilyn Bolt vs. McLeod USA. The Complainant claims that a delay in transfer of telephone service caused loss of income. The Complainants seek the following relief: "I know we lost a \$10,000 job because of not having a phone. Plus other jobs and 10 hours of time spent at a payphone. And no phone for emergency reasons. We feel we lost a minimum of \$12,000."

Staff Attorney: Karen Cremer
Consumer Affairs: Leni Healy
Date Filed: 10/27/98
Intervention Deadline: NA

- TC98-193 In the Matter of the Complaint filed by Debra Esche, Canton, South Dakota, against U S WEST Communications, Regarding Unacceptable Service

Complaint by Debra Esche vs. U S WEST Communications. The Complainant describes frustration, effort and expenses caused by a delay in obtaining telephone service. The Complainant seeks the following relief: "require U S West to reimburse me for long distance calls and the time I spent dealing with this situation. Require U S West to provide brick type phones for all customers with delayed service. Require U S West to come up with a written policy that includes these items."

Staff Attorney: Camron Hoseck
Consumer Affairs: Leni Healy
Date Filed: 10/26/98
Intervention Deadline: NA

- TC98-194 In the Matter of the Complaint filed by Basec.net, Huron, South Dakota, against U S WEST Communications and FirsTel, Inc., Regarding Billing Issues

Complaint by Marvie Tschetter of Basec.net vs. U S WEST Communications and FirsTel, Inc. The Complainant purchased an existing business and contacted U S WEST to continue customer access through T-1 lines. U S WEST informed the Complainant that Basec.net could not take over payment of the lines unless the previous owner's debt was paid in full. Basec.net decided to move the equipment and obtain services through FirsTel. After obtaining the services, Basec.net was informed by U S WEST that they would be charged for installation/construction fees, the old billings of the previous owner, and additional charges for monthly service until other options were available. Neither U S WEST nor FirsTel disclosed these costs prior to providing service. FirsTel offered a plan with minimal installation fees but could not offer the service for 15-20 days which would not allow Basec.net's customers access to their services. The Complainant seeks the following relief: "1) Require U S WEST to inform promptly of facilities issues. 2) Some sort of financial compensation for loss of revenue."

Staff Attorney: Karen Cremer
Consumer Affairs: Leni Healy
Date Filed: 10/26/98
Intervention Deadline: NA

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You may subscribe to the PUC mailing list at <http://www.state.sd.us/puc/puc.htm>



FAX TRANSMISSION
MCLEODUSA INCORPORATED

6400 C STREET, SW
CEDAR RAPIDS, IA 52406-3177
(319) 298-7000
FAX: (319) 298-7901

To: *LEW: Healy* Date: *11-24-98*
Fax #: *605-773-3809* Pages: *3* including this cover sheet.
From: *Rich Lipman*
Subject: *BREG + Marilyn B.H.*

IMPORTANT:

THIS MESSAGE IS INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THE MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERING THE MESSAGE TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE, AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA REGULAR POSTAL SERVICE. THANK YOU. COMMENTS.

TC 98-192

McLeodUSA[®]

November 24, 1998

Leni Healy
South Dakota Public Utilities Commission
State Capitol Building
Pierre, South Dakota 57501

Re: Greg and Marilyn Bolt

Dear Ms. Healy:

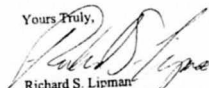
This letter is in response to the complaint filed against McLeodUSA by Mr. and Mrs. Greg Bolt. McLeodUSA apologizes for the delay in our written response. Mr. and Mrs. Bolt's complaint is regarding their loss of service while having their telephone service moved to their new residence. They state also that they were billed for time they did not have service and a fee to move service. Mr. and Mrs. Bolt are requesting \$12,000 for the loss of business they incurred.

According to our records, Mrs. Bolt contacted us on April 30, 1998, and requested to have her service moved. Since McLeodUSA is a re-seller of US West's telephone lines, we rely on them to provide service and repair to our customers. They give us an approximate time frame of 7 - 10 business days in order to complete a move order. This is the due date we give our customers. On May 7, 1998, US West scheduled the Bolt's move order for May 11, 1998. The following day Mr. Bolt reported that their telephone was not in service at their new residence. This issue was reported to US West who verified that the move order had been completed. On May 13, 1998, US West reported that their testing had found the problem to be in the wiring. They stated that a technician would have to be sent out in order to correct the problem. If the problem is found to be within the customer's residence or equipment, the customer is then held responsible for dispatch charges from US West. Since we did not have the customer's authorization to dispatch a technician we were unable to do so. On May 18, 1998, Mrs. Bolt contacted us and stated that she was still without service. This issue was reported to US West the same day. US West reported that the line test showed that there was a problem in the ground wiring. A commit time was given of May 19, 1998, this was the same day Mr. Bolt's service was converted back to US West. On May 26 1998, US West contacted us stating that the service problem had been resolved as of May 21, 1998. They stated that the problem had been with the customer's equipment.

McLeodUSA has credited back the service charges that Mr. and Mrs. Bolt incurred while they were without service. In addition the move fee of \$29.00 was credited back to their account. Per McLeodUSA's tariffs we are not required to reimburse customers for loss of business. Mr. and Mrs. Bolt were also using their residential telephone line as a business line and not paying business rates. On October 28, 1998, in attempt to meet an acceptable resolution with Mr. and Mrs. Bolt, we offered to remove all remaining charges from their account and in addition to send them a check for \$100. Mrs. Bolt found this offer unacceptable and therefore the credits were not applied to their account.

McLeodUSA strives to provide excellent customer service and regrets that Mr. and Mrs. Bolt were not satisfied with our offer. Should you have further questions, please contact me at your convenience.

Yours Truly,



Richard S. Lipman
Associate General Counsel

cc: Mr. and Mrs. Greg Bolt

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

IN THE MATTER OF THE COMPLAINT FILED) BY GREG AND MARILYN BOLT, RAPID CITY,) SOUTH DAKOTA, AGAINST MCLEODUSA) TELECOMMUNICATIONS SERVICES, INC.) REGARDING DELAYED TRANSFER OF) SERVICE)	ORDER FINDING) PROBABLE CAUSE AND) NOTICE REQUIRING) ANSWER) TC98-192
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On October 27, 1998, the Public Utilities Commission (Commission) received a complaint by Greg and Marilyn Bolt, Rapid City, South Dakota (Complainants), against McLeodUSA Telecommunications Services, Inc (McLeodUSA). The Complainants claim that a delay in transfer of telephone service caused loss of income. The Complainants seek the following relief: "I know we lost a \$10,000 job because of not having a phone. Plus other jobs and 10 hours of time spent at a payphone. And no phone for emergency reasons. We feel we lost a minimum of \$12,000."

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 November 25, 1998, at a duly noticed meeting, the Complainants explained their complaint to the Commission. McLeodUSA explained its actions in this matter to the Commission.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-11, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01.07 01 through 20:10:01.15 01, inclusive. The Commission voted unanimously to find probable cause. 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 McLeodUSA and McLeodUSA shall file with the Commission their answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 1st day of December, 1998.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By Melanie Laska

Date 12/8/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

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DEC 28 1998

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

IN THE MATTER OF THE COMPLAINT
FILED BY GREG AND MARILYN BOLT,
RAPID CITY, SOUTH DAKOTA, AGAINST
MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC. REGARDING DELAYED
TRANSFER OF SERVICE

DOCKET NO. TC98-192

ANSWER

COMES NOW McLeodUSA Telecommunications Services, Inc. ("McLeodUSA"), Respondent in the above-captioned complaint filed by Greg and Marilyn Bolt (Complainants), and for its Answer to the complaint, hereby states:

1. McLeodUSA admits that Complainants were PrimeLine customers. McLeodUSA affirmatively asserts that PrimeLine is a residential product offering set forth in McLeodUSA Telecommunications Services, Inc.'s Tariff No. 1, Corrected First Revised Page No. 67.13.
2. McLeodUSA admits that Complainants submitted a move order on April 30, 1998, to move their PrimeLine service to a new address.
3. McLeodUSA denies the allegation that Complainants were promised by a McLeodUSA representative that the move would be completed "within a week." McLeodUSA affirmatively asserts that Customer Service Representatives inform every customer that any service order, including service moves, will be completed within "seven to ten business days" because that is the standard interval that U S West imposes on any Centrex Plus related change in service configuration. The information related to the expected service interval was reconveyed to Mrs. Bolt when she called into customer service on May 8, 1998.

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4. McLeodUSA denies the allegation that Complainants were told the move would be completed on May 10, 1998. On May 7, 1998, U S West Communications, Inc. ("U S West"), the underlying provider of local services to McLeodUSA, had given McLeodUSA a commit of May 11, 1998. This date was passed on to the customer during the conversation on May 8, 1998.

5. McLeodUSA admits the allegation that on May 12, 1998, Complainant called to inquire about service installation and was informed that the installation should be completed that day. McLeodUSA affirmatively asserts that U S West reported service was installed by U S West at Complainant's new location on May 11, 1998, within the seven to ten business day interval Complainant had been advised of by McLeodUSA when the order was submitted.

6. McLeodUSA neither admits nor denies that Complainant called U S West on May 13, 1998 and was told that U S West could install service by May 15, 1998. McLeodUSA has no knowledge of such a telephone conversation or the content thereof.

7. McLeodUSA admits that Complainant requested to convert their service back to U S West on May 13, 1998. McLeodUSA affirmatively asserts that Complainant was informed that processing such an order takes seven to ten business days, consistent with the standard U S West interval for processing Centrex Plus related orders. McLeodUSA further affirmatively asserts that McLeodUSA opened a trouble ticket on May 13, 1998 with U S West regarding the lack of service at the new location. U S West gave a commit time of 6:00 p.m. May 14, 1998.

8. McLeodUSA admits that order to convert service back to U S West was issued May 18, 1998.

9. McLeodUSA neither admits nor denies that phone service was installed by U S West on May 22, 1998. McLeodUSA affirmatively asserts that U S West informed

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McLeodUSA that the trouble with Complainants telephone service after the move was completed on May 11, 1998 was Complainant's own equipment.

AFFIRMATIVE DEFENSES

1. Complainant's faulty telephone equipment was the proximate cause for their telephone service to be inoperable after the service installation had been completed by U S West on May 11, 1998. The installation was completed in a timely manner as evidenced by the fact that the install date was within the "seven to ten business" day estimate provided to Complainant when the move order was placed.

2. McLeodUSA is immune from liability for loss of business damages as a result of its filed tariffs which govern provision of telecommunications services by McLeodUSA in South Dakota. McLeodUSA's approved tariff on file with the South Dakota Public Utilities Commission strictly limits liability to credits for the amount of time service was out:

2.3 Liability (cont'd)

Notwithstanding anything to the contrary in this section, if McLeod's service is interrupted and remains out of service for more than twenty-four (24) hours after the earlier of being reported to McLeod or being found by McLeod to be out of order, and if the interruption is not the result of a negligent or willful act by the Customer, a malfunction of Customer-owned equipment, McLeod's inability to gain access to the Customer's premises, or causes beyond McLeod's control as described in the first paragraph of this section, McLeod will make appropriate adjustments. Such adjustments, in the form of direct payments or bill credits, will be the proportionate part of the monthly charge for all services and facilities rendered inoperative during the interruption, beginning with the hour of the report to McLeod, or discovery by McLeod, of the interruption.

McLeodUSA Telecommunications Services, Inc. Tariff No. 1, Original Page No. 19. Tariffs

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have the force and effect of law and therefore bind the Complainants to recovery of a credit in an amount equal to the charges that would have been imposed during the outage period. Any other type of damages are not allowable pursuant to McLeodUSA's binding tariffs. McLeodUSA has already credited customer in accordance with McLeodUSA's filed tariffs and waived the \$50 termination fee that McLeodUSA was otherwise entitled to charge customer when leaving McLeodUSA's service within the first twelve months of serve. In addition, McLeodUSA offered customer an extra \$100 credit in good faith to resolve the dispute.

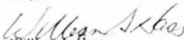
3. Similarly, Complainants agreed to the limitation on McLeodUSA's liability when they signed up for service. The Welcome Kit provided to Complainants in 1997 included an agreement informing Complainants that McLeodUSA would not be liable for a service outage beyond crediting the Customer for the time their service was out. McLeodUSA has already satisfied their obligation under the contract with Complainant. Complainants' attempt to recoup additional damages for an outage violates their agreement with McLeodUSA on the limitation of liability.

4. Complainants were fraudulently taking service under McLeodUSA's residential offering, identified as PrimeLine when in fact they were using the service to operate a business. Section 4.4.11 of McLeodUSA's tariff states that PrimeLine Residential Service . . . is limited to service at premises which are strictly residential in nature . . ." In addition to the liability limitation contained McLeodUSA's tariffs and service agreement with the Complainants, Complainants cannot seek damages related to "loss of business" when in fact the telephone service they had agreed to take was not a business service but a residential service.

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WHEREFORE, McLeodUSA respectfully requests the Commission deny Complainants complaint. McLeodUSA met its stated interval for installing service. Complainants' faulty telephone equipment caused their service to out for a longer period of time.

Respectfully submitted,



William A. Haas
Associate General Counsel

McLeodUSA Telecommunications Services, Inc.
McLeodUSA Technology Park
6400 C Street SW
P.O. Box 3177
Cedar Rapids, IA 52406-3177
(319) 298-7295
(319) 298-7901

015004216

CERTIFICATE OF SERVICE

The undersigned hereby states that on December 23, 1998, this document was served by overnight mail on the following party as required by the rules of the Public Utilities Commission.



Greg and Marilyn Bolt
1703 11th Street
Rapid City, SD 57701

01155554227

LAW OFFICES
MAY, ADAM, GERDES & THOMPSON LLP
503 SOUTH PIERRE STREET
P.O. BOX 180
PIERRE, SOUTH DAKOTA 57501-0180

GLENN W. MARTENS (BB) (BS)
KARL GOLDEN (TD) (BB) (BS)
THOMAS C. ADAM
DAVID R. GERDES
CHARLES W. THOMPSON
ROBERT M. ANDERSON
BRYAN A. WILBUR
TIMOTHY W. ENSEL
MICHAEL F. SOBEK

January 11, 1999

OF COUNSEL:
WARREN W. MAY

TELEPHONE
605.224.8803
TELECOPIER
605.224.8289

E-MAIL
dag@magi.com

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

RECEIVED
JAN 12 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: **Complaint of Greg and Marilyn Bolt against McLeod**
Docket No: TC98-192
Our file: 1924

Dear Bill:

Enclosed is a copy of Judge Zinter's order admitting Bill Haas to practice *pro hac vice* in this matter.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosure

cc/enc: Bill Haas

015004218

RECEIVED

JAN 12 1999

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

IN THE MATTER OF THE COMPLAINT) DOCKET NO: TC98-192
FILED BY GREG AND MARILYN BOLT,)
RAPID CITY, SOUTH DAKOTA, AGAINST) ORDER FOR APPEARANCE
MCLEODUSA TELECOMMUNICATIONS) OF WILLIAM A. HAAS AS
SERVICES, INC., REGARDING) NONRESIDENT ATTORNEY
DELAYED TRANSFER OF SERVICE)

Upon the application of William A. Haas to appear as nonresident counsel in the above-entitled matter, and upon the motion of David A. Gerdes of Pierre, Hughes County, South Dakota, as resident attorney, and it appearing that said nonresident attorney is employed full-time by McLeodUSA and, as such, said nonresident attorney is not required to obtain a South Dakota sales and use tax license, it is

ORDERED that the motion of nonresident attorney to appear is hereby granted and William A. Haas is hereby admitted to practice in the above-entitled matter pro hac vice.

Dated this 7 day of January, 1999.

BY THE COURT:

[Handwritten signature]

Circuit Court Judge

ATTEST:

Mary L. Erickson
Clark of Courts
By [Signature] (SEAL) Deputy

STATE OF SOUTH DAKOTA
CIRCUIT COURT, HUGHES CO.

FILED

JAN 07 1999

Mary L. Erickson CLERK
[Signature] Deputy

State of South Dakota }
County of Hughes } ss

I hereby certify that the foregoing instrument is a true and correct copy of the original on file in my office.

Dated this 7 day of Jan 1999
MARY L. ERICKSON, Clerk of Courts
By [Signature]
Clark of Courts / Deputy

Post-It Fax Note 7671
Date 3-29-99 p. of page 11
To Tom Weik
From Karen Gremer
Co Dept Roger Murphy
City PUC
Phone # 254-2424 Phone # 773 3201
Fax # 607-534-0618 Fax # 773-3409

01508.42.19

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FOR AND NOTICE
BY GREG AND MARILYN BOLT, RAPID CITY,)	OF HEARING
SOUTH DAKOTA, AGAINST MCLEODUSA)	
TELECOMMUNICATIONS SERVICES, INC.)	TC98-192
REGARDING DELAYED TRANSFER OF)	
SERVICE)	

On October 27, 1998, the Public Utilities Commission (Commission) received a complaint by Greg and Marilyn Bolt, Rapid City, South Dakota (Complainants), against McLeodUSA Telecommunications Services, Inc. (McLeodUSA). The Complainants claim that a delay in transfer of telephone service caused loss of income. The Complainants seek the following relief: "I know we lost a \$10,000 job because of not having a phone. Plus other jobs and 10 hours of time spent at a payphone. And no phone for emergency reasons. We feel we lost a minimum of \$12,000."

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 November 25, 1998, at a duly noticed meeting, the Complainants explained their complaint to the Commission. McLeodUSA explained its actions in this matter to the Commission. The Commission voted unanimously to find probable cause.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-2, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7 1, 49-31-7 2, 49-31-10, 49-31-11, 49-31-38, 49-31-38 1, 49-31-38 2, 49-31-38 3, 49-31-60 through 49-31-68, inclusive, and ARSD 20 10 01 07 01 through 20 10 01 28, inclusive. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing shall be held on April 15, 1999, beginning at 9 00 o'clock A.M. (MDT), in Room 3rd Floor West, Rapid City Area School Administrative Offices, 300 6th Street, Rapid City, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether McLeodUSA 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

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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 McLeodUSA committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held at the time and place specified above on the issue of whether McLeodUSA committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 5th day of March, 1999.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By	<u>Hilaine Kalbe</u>
Date	<u>3/5/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

April 13, 1999

Mr. William Bullard, Executive Secretary
South Dakota Public Utilities Commission
State Capitol Building, 500 East Capitol Street
Pierre, SD 57501-5070

Re: Greg and Marilyn Bolt v. McLeodUSA Telecommunications Services, Inc.; Docket No. TC98-192

Dear Mr. Bullard:

Please be advised that Greg and Marilyn Bolt and McLeodUSA Telecommunications Services, Inc. ("McLeodUSA") have reached a settlement agreement to resolve the complaint filed by the Bolts in Docket No. TC-98-192. It is my understanding that Mrs. Bolt has advised Karen Cremer, Staff Attorney, of the settlement agreement via telephone call on April 13, 1999.

McLeodUSA is authorized by Mr. and Mrs. Bolt to provide this written notification to the Commission on behalf of both parties and request that the complaint be withdrawn with prejudice, and the hearing scheduled in this matter for Thursday, April 15, 1999 be canceled.

Sincerely,

William A. Haas
Associate General Counsel

Neil Fulton, Esq.

NOV. 24. 1998

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DISMISSING
BY GREG AND MARILYN BOLT, RAPID CITY,)	COMPLAINT AND CLOSING
SOUTH DAKOTA, AGAINST MCLEODUSA)	DOCKET
TELECOMMUNICATIONS SERVICES, INC.)	
REGARDING DELAYED TRANSFER OF)	TC98-192
SERVICE)	

On October 27, 1998, the Public Utilities Commission (Commission) received a complaint by Greg and Marilyn Bolt, Rapid City, South Dakota (Complainants), against McLeodUSA Telecommunications Services, Inc (McLeodUSA). The Complainants claim that a delay in transfer of telephone service caused loss of income. The Complainants seek the following relief: "I know we lost a \$10,000 job because of not having a phone. Plus other jobs and 10 hours of time spent at a payphone. And no phone for emergency reasons. We feel we lost a minimum of \$12,000."

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 November 25, 1998, at a duly noticed meeting, the Complainants explained their complaint to the Commission. McLeodUSA explained its actions in this matter to the Commission. The Commission voted unanimously to find probable cause. McLeodUSA filed its Answer with the Commission on December 28, 1998. A hearing was scheduled for April 15, 1999. Prior to the hearing the parties informed the Commission that the matter had been settled and the Complainants wished to have the complaint dismissed and the docket closed.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-11, 49-31-60 through 49-31-68, inclusive, and ARSD 20 10 01 07 01 through 20 10 01 15 01, inclusive.

On April 26, 1999, at its duly noticed meeting, the Commission voted unanimously to dismiss the complaint and close the docket. It is therefore

ORDERED, that this complaint be dismissed and the docket be closed.

Dated at Pierre, South Dakota, this 5th day of May, 1999.

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 envelope, with charges prepaid thereon.	
By:	<u>Debra Schoenfelder</u>
Date:	<u>5/6/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION

JAMES A. BURG
JAMES A. BURG, Chairman

PAM NELSON
PAM NELSON, Commissioner

Debra Schoenfelder
LASKA SCHOENFELDER, Commissioner