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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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)
IN THE MATTER OF THE) TC98-142
) TC98-155
PUC AGENDA MEETING) TC98-194
) TC98-196
) CT99-009
-----)

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: July 29, 1999
10:00 A.M.
LCR1, Capitol Building
Pierre, South Dakota

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

COMMISSION STAFF
PRESENT: Mike Myers
Karen Cremer
Camron Hoseck
Harlan Best
Gregory A. Rislov
David Jacobson
Michele Farris
Keith Senger
Leni Healy
Shirleen Fugitt
Jeff Koerselman
Sue Cichos
Bill Bullard

Reported by: Lori J. Grode, RMR

ORIGINAL

A P P E A R A N C E S

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2
3 For US West: Colleen E. Sevold
4 125 South Dakota Avenue
5 Sioux Falls, SD 57194
6

Appearances by Telephone:

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8 For GSA: Sam Kerr
9 Don Jiracek
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12 For FirstTel: Alan Peterson
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P R O C E E D I N G S

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2 CHAIRMAN BURG: Good morning. This is Jim
3 Burg, Chairman of the Public Utilities Commission. Pam
4 Nelson and Laska Schoenfelder are also present at the
5 meeting. And I will begin the meeting for July 27th
6 (sic) of the South Dakota Public Utilities Commission.
7 Let me call the roll call to see who's on.

8 (Roll call not transcribed.)

9 We're going to go to item number five and
10 take that first because Laska does have another meeting
11 she has to go to today. TC98-196, in the matter of the
12 complaint filed by Don Jiracek on behalf of GSA,
13 Incorporated, Rapid City, South Dakota, against McLeod
14 USA regarding inadequate service.

15 Today was the Commission's decision. So we
16 have had all the hearings and so today it's just a
17 matter of us making the decision, and it is not open
18 for any discussion of any issues in this particular
19 docket. So is there anything from the Commissioners?

20 COMMISSIONER SCHOENFELDER: Mr. Chairman, I
21 have a motion. And pursuant to ARSD 20:10:07:05,
22 McLeod USA Telecommunications Services, Inc., shall pay
23 GSA, Inc., \$4.38 for the main line service outage that
24 began on September 25th, '98, and continued to
25 September 28th, '98.

1 McLeod shall pay GSA \$1,083.54 for
2 prematurely switching GSA's long distance service and
3 thus depriving GSA one month of free service from NOS.

4 McLeod shall additionally pay GSA \$2,000 for
5 substandard service in failure to respond in a timely
6 manner to GSA's request, both of which cost GSA time
7 and money.

8 CHAIRMAN BURG: I will second that motion.

9 COMMISSIONER NELSON: And I'd concur.

10 CHAIRMAN BURG: I'll just add that a lot of
11 this was very confusing. We know that the service
12 quality was not where it should be and really
13 inconvenienced the customers. And that was part of
14 what added to my seconding this motion.

15 Okay. That concludes item number TC98-196.
16 A settlement has been read. We will go back to item
17 number two, TC98-142, in the matter of the complaint
18 filed by W. Joseph Claflin, Rapid City, South Dakota,
19 against U S West Communications regarding updating the
20 lines.

21 Today, how shall the Commission proceed? The
22 first thing we wanted a report from U S West because
23 this is a issue we have had since 1998 and we gave
24 until, let's see, until July 31st for U S West to try
25 to reach an agreement with the concerns the people had

1 and I know Edelweiss Mountain Improvement Association.
2 Are you giving that report, Colleen?

3 MS. SEVOLD: Yes, I will, Mr. Chairman. This
4 is Colleen Sevold, U S West. We did agree to replace
5 this system. We did replace it. It was completed the
6 latter week of June.

7 CHAIRMAN BURG: Okay. Does staff -- do you
8 have any comments on it?

9 MS. HEALY: Chairman Burg, we did hear from
10 the complainant, who indicated he is satisfied with the
11 service and requests that the docket be closed.

12 CHAIRMAN BURG: There isn't anybody from that
13 complainant group that is on the phone now, is there?

14 MS. HEALY: No, there is not.

15 CHAIRMAN BURG: They did indicate to you
16 they're satisfied and would approve closing the
17 docket?

18 MS. HEALY: That's right.

19 CHAIRMAN BURG: Okay. With that I will so
20 move. I will move that TC98-142 be closed and the
21 docket be closed.

22 COMMISSIONER SCHOENFELDER: Seconded.

23 COMMISSIONER NELSON: Concur.

24 CHAIRMAN BURG: TC98-155, in the matter of
25 the complaint filed by Loretta Spear, Hill City, South

1 Dakota, against U S West Communications, Incorporated,
2 regarding updating lines.

3 Today, how shall the Commission proceed? And
4 what is the Commission's decision? Karen, did you
5 have --

6 MS. CREMER: I did. I have a couple
7 comments. This is Karen Cremer from Commission staff.
8 We have reviewed -- I had Steve Wegman review
9 Mr. Peters' comments from the last time this case was
10 on the agenda. Steve had no problem with his numbers.
11 However, we would disagree with him where he states
12 that the problem all along was in the buried drop. His
13 testimony at the hearing was that U S West replaced
14 carrier cards, moved a repeater, replaced plug-in
15 equipment, and on and on. And so I wasn't comfortable
16 with his portrayal of this as no big deal.

17 Staff would again recommend that the Anaconda
18 carrier system be replaced with a system that provides
19 access to and transmission of two-way switched
20 telecommunication service. In the alternative, if the
21 Commission decides not to replace the system, staff
22 would then recommend that the customer's request be
23 granted and that is that her request was that she have
24 a reduced monthly charge until such time as she can
25 access the same services that her neighbors on this

1 same carrier system. They have access to those
2 services she doesn't, so she requested a reduction in
3 her monthly charge.

4 CHAIRMAN BURG: And you recommended it in the
5 alternative?

6 MS. CREMER: In the alternative. If you
7 don't replace the whole system, that would be our
8 alternative recommendation.

9 CHAIRMAN BURG: The question that I have is I
10 know that the -- that U S West said they would do
11 certain things. Have those been done? And, frankly,
12 she's still not able to get service she has. Do you
13 have an answer?

14 MS. CREMER: To my knowledge it has not been
15 done. My understanding was someone actually has to
16 decide they no longer want those types of services.
17 They will then move that customer onto a copper line
18 and move Mrs. Spears then onto the line that that
19 customer had that allowed them to get other services
20 and they would have to do that. And as far as I know,
21 that hasn't happened. Is that right, Colleen?

22 MS. SEVOLD: Is Mr. Peters on the line yet?

23 CHAIRMAN BURG: Ed Peters, are you on the
24 line yet?

25 MS. SEVOLD: If we need specific answers to

1 those questions, I'd really ask that we could maybe
2 defer this just a few minutes. I know he's going to be
3 on the line. I will tell you that we believe that we
4 are currently providing her very good voice grade
5 service. Now, she cannot get those features, that is
6 true, on the line that she is on. And I do not believe
7 that she's been switched to a copper line. But she is
8 receiving voice grade service, although a very high
9 standard.

10 MS. CREMER: And staff, my comment would
11 simply be voice grade is no longer the standard in
12 South Dakota.

13 COMMISSIONER SCHOENFELDER: I have a
14 question. Miss Sevold, when you say voice grade
15 service, then, that's a very high standard, does that
16 mean that you have taken care of the interruption
17 problems, the static on the line problems, those kind
18 of problems so she does have voice grade service that
19 is reliable?

20 MS. SEVOLD: That's correct. And Mr. Peters
21 has done the testing and he believes that to be true.

22 CHAIRMAN BURG: Has anybody from staff talked
23 to her?

24 MS. CREMER: Not since the last meeting, up
25 until the last meeting; and I think she had said at

1 that time that they have not had a problem since
2 whenever they came in last. The static is gone. They
3 were still getting some intermittent rings, you know,
4 those kind of half rings, but I think Mr. Peters
5 thought that should all be cleared up when they had
6 done whatever they did last time.

7 CHAIRMAN BURG: But she's still requesting
8 the ability to have the other services?

9 MS. CREMER: She cannot get other services
10 and other people on her same system can. And so her
11 request, as I reread the testimony, or reread her
12 request, was that then she wants a reduced monthly
13 charge for that.

14 CHAIRMAN BURG: Does any of the Commissioners
15 want to get any comments from Mr. Peters, or would we
16 like to go forward?

17 COMMISSIONER NELSON: I think we can go
18 forward.

19 COMMISSIONER SCHOENFELDER: Move forward.

20 COMMISSIONER NELSON: Mr. Chairman, I have a
21 motion. And I guess I realize that Loretta Spear may
22 not be receiving digital dial tone more reliable -- I
23 realize that she may now be receiving the dial tone
24 that's more reliable than before, but I also believe
25 that she's entitled to receive the same services her

1 neighbors are receiving. She and her neighbors are
2 paying the same basic local rates to U S West. So U S
3 West shouldn't be allowed to provide lesser
4 discriminatory service to Miss Spears.

5 I therefore move that U S West Communications
6 be ordered to provide Miss Spears with the same service
7 capability, including digital services and an
8 acceptable Internet speed as that which is being
9 received by her neighbors who are not on an analog
10 carrier system.

11 I further move that U S West Communications
12 file within ninety days a plan to provide those
13 services, the estimated costs of the plan, and a
14 proposal for recovery of the costs, all subject to our
15 further approval.

16 COMMISSIONER SCHOENFELDER: I'll second that.

17 CHAIRMAN BURG: And I will concur. TC98-155
18 we have established a procedure for settling this.

19 For item number four, TC98-194, in the matter
20 of the complaint filed by Basec.Net, Huron, South
21 Dakota, against U S West Communications, FirstTel
22 Incorporated, regarding billing issues.

23 Leni, are you taking this one?

24 CHAIRMAN BURG: Go ahead. Alan Peterson, are
25 you on the phone yet?

1 MR. PETERSON: Yes.

2 CHAIRMAN BURG: Go ahead.

3 MR. PETERSON: Really nothing other than a
4 pro forma appearance to notify the agency that we have
5 reached a settlement that all parties have now signed
6 and it's been implemented and we're in a position to
7 request that the complaint be dismissed.

8 CHAIRMAN BURG: And you're asking that it be
9 dismissed with prejudice?

10 MR. PETERSON: Yes.

11 CHAIRMAN BURG: Okay. I will so move then
12 that we do grant the request to dismiss with prejudice
13 and close this docket.

14 COMMISSIONER SCHOENFELDER: Seconded.

15 COMMISSIONER NELSON: Concur.

16 CHAIRMAN BURG: TC98-194 has been -- the wish
17 has been granted for dismissal of the docket and the
18 docket is closed.

19 MR. PETERSON: Thank you. I will then also
20 exit my appearance by telephone.

21 CHAIRMAN BURG: Okay. Thank you for joining
22 us.

23 CHAIRMAN BURG: Number six, CT99-009, in the
24 matter of the complaint filed by Thelma "Sally" Fox,
25 Huron, South Dakota, against Touchtone Communications

1 regarding unauthorized billing for services and a lack
2 of certificate of authority.

3 The question being today does the Commission
4 find probable cause of an unlawful or unreasonable act,
5 rate, practice, or omission to go forward with this
6 complaint and serve it upon the respondent. I don't
7 believe there's anybody on the phone on this one, is
8 there?

9 MS. HEALY: I don't believe so either,
10 Chairman Burg. All the parties were contacted by
11 registered mail informing them of this meeting. I've
12 had no further contact with either parties. However,
13 the information that Ms. Fox did submit to us does
14 appear to be an incident of slamming, so staff's
15 recommendation would be to find probable cause and go
16 forward.

17 CHAIRMAN BURG: Okay. I see, Camron, you're
18 on that one. Do you have anything to add?

19 MR. HOSECK: I would concur. Even though the
20 parties haven't made an appearance, there seems to be a
21 public interest issue to be addressed in this case.

22 CHAIRMAN BURG: Have we had any kind of
23 response from Touchtone at all?

24 MS. HEALY: No.

25 CHAIRMAN BURG: And, again, it is true they

1 are not registered in South Dakota? They don't have a
2 certificate of authority.

3 MS. HEALY: There's some question of that.
4 They may be registered under another name, but they
5 have not yet responded to us indicating what name.

6 CHAIRMAN BURG: And she is being billed as
7 Touchtone.

8 CHAIRMAN BURG: We don't have a certificate
9 of authority for Touchtone as such so there's only one
10 thing we can presume is they aren't registered unless
11 they show us something else.

12 MS. HEALY: That's right, we did get the
13 receipt back indicating they received our certified
14 mail.

15 COMMISSIONER SCHOENFELDER: Excuse me, then
16 do we need something more than just a probable cause
17 finding in this docket if they're operating in this
18 state without a certificate? Do we know that they're
19 paying sales tax, and do we need to do a show cause as
20 to why they shouldn't be forever banned from here?

21 MR. HOSECK: What I might suggest,
22 Commissioners, is that we go ahead with the probable
23 cause on this and see how the facts develop. At this
24 point in time maybe they're operating under a different
25 corporate name or in doing business as or something

1 like that. I think it might be premature with what you
2 suggest may be issues we may need to address in the
3 future.

4 CHAIRMAN BURG: We can do that within the
5 probable cause finding.

6 MR. HOSECK: Yeah, but not today.

7 CHAIRMAN BURG: That's what I mean.

8 COMMISSIONER SCHOENFELDER: I would move that
9 we find probable cause in CT99-009.

10 COMMISSIONER NELSON: I second.

11 CHAIRMAN BURG: I'll concur. Probable cause
12 has been found in CT99-009.

13 (THE HEARING CONCLUDED AT 10:15 A.M.)

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1 STATE OF SOUTH DAKOTA)
)
2 COUNTY OF HUGHES)

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4 I, LORI J. GRODE, Registered Merit Reporter
5 and Notary Public in and for the State of South
6 Dakota:

7 DO HEREBY CERTIFY that the above hearing,
8 pages 1 through 14, inclusive, was recorded
9 stenographically by me and reduced to typewriting.

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

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

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and seal of office at Pierre, South Dakota, this
21 3rd day of August 1999.

22

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Lori J. Grode, RMR, RPR

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