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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

- _____) TC98-155
- _____) TC00-112
- IN THE MATTER OF THE) TC01-051
- _____) TC01-059
- PUC AGENDA MEETING) TC01-064
- _____) TC01-069
- _____) TC01-070
- _____) TC01-071
- _____ TC01-077
- _____ TC01-090
- _____ TC01-091

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: July 24, 2001
 1:30 P.M.
 Room LCR 1, Capitol Building
 Pierre, South Dakota

PUC COMMISSION: Jim Burg, Chairman
 Pam Nelson, Vice-Chair

COMMISSION STAFF
PRESENT: Rolayne Ailts Wiest
 Karen Cremer
 Kelly Frazier
 Harlan Best
 Gregory A. Rislov
 David Jacobson
 Michele Farris
 Heather Forney
 Keith Senger
 Mary Healy
 Mary Giddings
 Sarah Sharp
 Sue Cichos

ORIGINAL

A P P E A R A N C E S

1
2 BY TELEPHONE:

3 For US West: Thomas Welk
4 Colleen E. Sevold
5 Herbert Rupercht
6

7 For Williams & Co: Bernie Snoddy
8

9 PRESENT:

10 For Sprint: Richard Tieszen
11 Pierre, SD
12

P R O C E E D I N G S

13
14 CHAIRMAN BURG: I think we will call the meeting
15 to order. I'm Chairman Jim Burg, Public Utilities
16 Commission. The record can show that Pam Nelson is also
17 here as commissioner.

18 I'll do roll call on the phone first. Colleen,
19 are you on?

20 (Roll Call)

21 The first item on the agenda is approval of the
22 minutes from the Commission meetings held on July 6th and
23 July 10th. Mary, were there any corrections?

24 MS. GIDDINGS: There were none, Chairman Burg.

25 COMMISSIONER NELSON: I'd move approval.

1 CHAIRMAN BURG: I'll second that. The minutes are
2 approved. Consumer issues, status report on consumer
3 utility inquiries and complaints recently received by the
4 Commission. Marry.

5 MS. MARY HEALY: First of all, I'd like to make it
6 known the figures are not necessarily complete because I
7 did this -- because I attended NARUC, so there are several
8 days that are missing.

9 (Consumer Report.)

10 CHAIRMAN BURG: Is there any questions for Mary?
11 If not, we'll move to item two, TC98-155, in the matter of
12 the complaint filed by Loretta Spear, Hill City, South
13 Dakota, against U S West Communications, Incorporated,
14 regarding updating lines. Today, staff has an update and
15 if the matter is resolved, shall the Commission dismiss
16 the complaint and close the docket?

17 MS. CREMER: This is -- I'll take that. This is
18 Karen Cremer from staff. Apparently I left my notes
19 downstairs. In August of '99 the Commission issued an
20 order requesting, or stating, that Qwest should -- let me
21 find it here quick. That they provide the complainant
22 telecommunications plant capable of furnishing digital
23 services at an acceptable Internet speed and order them to
24 develop a plan to identify the manner, time, cost, and
25 resources required to do that and they were given ninety

1 days.

2 Shortly after they -- Qwest filed a petition for
3 reconsideration. And then within the ninety days they did
4 file their plan. A hearing was set for March 29th, the
5 issue being to look at the proposed implementation plan,
6 the issue of cost recovery, and Mrs. Spear's quality of
7 service. Then on March 27th Qwest found an extra pair of
8 copper cable. They switched Mrs. Spear to that. And when
9 I talked to her on July 18th last week, her service is
10 fine and has been fine ever since then.

11 Based on that, staff would recommend that we close
12 the complaint docket in this matter. Staff's position is
13 that if we should need to open a docket on their Anaconda
14 lines or further problems out there, we should do that
15 separate than Mrs. Spear's complaint docket.

16 CHAIRMAN BURG: So you're saying her complaint has
17 been satisfied from her and service has been satisfactory
18 for a long enough period of time?

19 MS. CREMER: Yes, it has been since March 27th of
20 2000. And when I talked to her the other day, she said
21 it's fine and she's very pleased with it.

22 CHAIRMAN BURG: Any other comments? If not, I
23 will move that we the Commission close -- dismiss the
24 complaint and close the docket in TC98-155.

25 COMMISSIONER NELSON: Seconded.

1 CHAIRMAN BURG: It has been dismissed and the
2 docket will be closed.

3 * * * * *

4 CHAIRMAN BURG: In the matter item number four, in
5 the matter of dismissing complaints CT00-112, CT01-008,
6 CT01-021, CT01-024, 01-026; and the question being if the
7 above matters are resolved, shall the Commission dismiss
8 the complaint and close the docket?

9 Probably just quicker to run through and see if
10 there's any comments on any of them. 00-112, we've got
11 Kelly.

12 MR. FRAZIER: Yes, I have -- we have a letter of
13 confirmation. It has been resolved. And I request from
14 the consumer that it be dismissed.

15 CHAIRMAN BURG: 00-108?

16 MR. FRAZIER: The same in that case also.

17 CHAIRMAN BURG: Is there any you need any comment
18 on?

19 MR. FRAZIER: All of them have letters and a
20 request it be dismissed all the way through CT01-026.

21 CHAIRMAN BURG: With that I will move the
22 Commission dismiss the complaints and close the dockets in
23 CT00-112, CT01-008, CT01-021, CT01-024 and CT01-026.

24 COMMISSIONER NELSON: I'd concur.

25 CHAIRMAN BURG: Those complaints will be dismissed

1 and the dockets closed on those items.

2 MR. WELK: Tom Welk. I'm sorry, I just came from
3 a deposition. I wanted you to know that I was on the
4 call.

5 * * * * *

6 CHAIRMAN BURG: TC01-059, in the matter of the
7 filing by Qwest Corporation for approval of the revisions
8 to its exchange and network service catalog. Today, shall
9 the Commission suspend the tariff sheets that were filed
10 on June 11th, 2001, and shall the Commission set a hearing
11 in this matter for September 12, 2001, in Pierre?

12 MS. CREMER: I'll take that, Commissioner Burg.
13 This is Karen Cremer from staff. Staff would request that
14 the rate be suspended for 120 days pursuant to SDCL
15 49-31-12.4(2). Staff requests this because we believe we
16 need time to review the Cost Study and possibly issue
17 other data requests in this matter.

18 At this time staff believes that the cost of
19 providing these services and one service is diminimus at
20 best; therefore, it does not believe it's in the public
21 interest for this rate to go into effect at this time.

22 CHAIRMAN BURG: Who's representing Qwest?

23 MS. SEVOLD: Chairman Burg, this is Colleen from
24 Qwest. And we have no objections to it going to a
25 hearing.

1 CHAIRMAN BURG: Okay. Any other comments or
2 questions?

3 MS. WIEST: My only question was 120 days from
4 what date? Generally it's 120 days from their proposed
5 effective date, but they didn't actually propose one so
6 120 days from what?

7 MS. CREMER: We'd go from --

8 MS. WIEST: I was wondering they filed June 11th,
9 usually they can be effective in 30 days, so would it make
10 sense to go from 120 days from that would be about July
11 10th or so.

12 MS. CREMER: That would work.

13 MS. WIEST: Does anyone object to that?

14 MS. SEVOLD: This is Colleen from Qwest. And I
15 would just mention that the FCC has said that 711 does
16 need to be in effect by October 1. So I believe 711 will
17 need to be resolved by October 1.

18 MR. TIESZEN: Mr. Chairman, I'd like to enter my
19 appearance. Dick Tieszen on behalf of Sprint as well. I
20 agree with Colleen that October 1 is a deadline for that,
21 which raises another question that I guess I wanted to
22 bring before the Commission today. I know it's not part
23 of the motion to reschedule this for September 12th, or to
24 suspend for the 120 days, which, by the way, Sprint agrees
25 and concurs that the rate should be suspended for the 120

1 days so this can be looked at. But there lies my
2 question. I guess it's of Colleen, whether Qwest is
3 willing to provide whatever cost studies they've done to
4 date, which would certainly expedite the ability to
5 address this in a timely manner.

6 MS. SEVOLD: This is Colleen again. Those cost
7 studies were sent to the staff today. So they would have
8 them, I would say, tomorrow or the next day.

9 CHAIRMAN BURG: And they're available to Sprint?
10 They're not proprietary or anything?

11 MS. SEVOLD: They were filed as confidential and
12 proprietary.

13 MR. TIESZEN: So is it your position we would need
14 to file appropriate motions in order to obtain cost
15 studies to look at this?

16 MR. WELK: This is Tom Welk, Dick. We normally
17 enter into a confidentiality order that's consistent with
18 the confidentiality request. I would assume that we would
19 do the same thing in this case and put in a standard
20 confidentiality order so your client would get those cost
21 studies.

22 MR. TIESZEN: That's exactly my question, Tom,
23 whether we can do that here as would normally be the case
24 without us having some dispute over we can get at those
25 cost studies so that we can look at it and analyze the

1 numbers.

2 MR. WELK: The confidentiality agreement would be
3 executed. You would have them. And I believe, Dick, we
4 could do that quite rapidly, assuming, Colleen, as I
5 understand the company's position, as long as there's a
6 confidentiality agreement.

7 MS. SEVOLD: Yes, that's correct.

8 MR. WELK: So we have those standard, Dick. I
9 think we can talk off line and get that negotiated quite
10 rapidly.

11 MR. TIESZEN: Good. That's what I wanted to know.

12 CHAIRMAN BURG: Does anybody have a problem then
13 with the September 12th hearing date?

14 MR. WELK: Yes, I do, Mr. Chairman. This is Tom
15 Welk. I have a two-week trial scheduled in front of Judge
16 Piersol that I cannot move. It has been moved twice. So
17 I can -- I've got many other dates, but that one I have a
18 conflict with.

19 CHAIRMAN BURG: Is that from, you know, from when
20 to when is those two weeks?

21 MR. WELK: It's the 12th, in the middle of it. It
22 starts on September 11th. So the prior week I could do
23 it.

24 CHAIRMAN BURG: If we did it the prior week, I
25 don't know what Sue is finding out on our agenda, but

1 staff, the following week, does that give you adequate
2 time? If we go two weeks after 11th we're going to run
3 awful --

4 MS. CICHOS: There would be dates available in
5 that week. I'll have to get with the parties.

6 CHAIRMAN BURG: Yeah. But I mean staff, is it
7 okay if we look at moving it the prior week?

8 MR. TIESZEN: If I understand, Mr. Chairman,
9 you're considering the first week of September? I think
10 that will work.

11 CHAIRMAN BURG: Right, right. I think if we leave
12 until after the two-week trial date, we're too close to
13 the October 1 date is what my thinking was. Any other
14 comments?

15 MS. VALENTI: Good afternoon, my name is Lynne
16 Valenti. I'm with the Department of Human Services. And
17 the Department filed a motion to intervene, and we also
18 are interested in having cost analyses. So, Mr. Welk, I
19 assume if I call you as well, that we could get the
20 necessary agreement; is that correct?

21 MR. WELK: Send me your address and who is going
22 to have it, and I will send you a draft of the
23 confidentiality agreement that's typically signed among
24 companies and then you would agree to keep that
25 information confidential.

1 CHAIRMAN BURG: Then if I understand, then, they
2 are able to get what you filed here; is that correct, or
3 do you send them a separate copy?

4 MR. WELK: They can get it up from there or from
5 us, whatever works out best for them or us. Sometimes we
6 have them get it from the staff; sometimes we give it to
7 them, Mr. Chairman, just depends on what's easiest for
8 both. And we'll certainly work that out.

9 CHAIRMAN BURG: Is there any other issues on this
10 docket?

11 MS. WIEST: Maybe what we should do then is just
12 suspend it until September 30th at this point.

13 CHAIRMAN BURG: Okay.

14 COMMISSIONER NELSON: I would move that the
15 Commission suspend the tariff sheets requested in TC01-059
16 until September 30th, 2001.

17 CHAIRMAN BURG: And then I would say that we
18 probably should just say we will establish a hearing date.

19 COMMISSIONER NELSON: And establish a hearing
20 date.

21 CHAIRMAN BURG: I will second that. So we have
22 suspended and established a hearing date in TC01-059.

23 * * * * *

24 CHAIRMAN BURG: TC01-064, in the matter of the
25 filing by Qwest Corporation for approval of its cost

1 recovery true-up for dialing parity implementation.

2 Today, shall the Commission approve the proposed
3 cost recovery true-up?

4 Who's got this one? Qwest, if you want to go
5 forward first?

6 MS. SEVOLD: Yes, Chairman Burg. Herbert Ruprecht
7 is going to talk to this one.

8 CHAIRMAN BURG: Go ahead, Herbert.

9 MR. RUPRECHT: I noticed before I get into it too
10 far that the minutes state that we're requesting a change
11 in rate from .00725 to .00750. I think that was amended
12 to .00835 from .00750. Mr. Best, isn't that what we would
13 -- isn't that the last information we have sent you?

14 MR. BEST: Yes, that's true.

15 MR. RUPRECHT: Well, we had. And I'll take this
16 opportunity to apologize. I had already apologized to
17 Mr. Best in another conversation. I wasn't doing any due
18 diligence when this was first filed. I didn't, frankly,
19 have the time to look at the true-up study in the detail I
20 should have. And Mr. Best had called me on the true-up
21 study, the initial one, and I had -- and he had problems
22 with that, and I agreed with him that there were problems
23 with that study. And I had subsequently redone the study
24 and submitted a second study to support that one .00835.

25 We also then would ask that the implementation

1 date change to August 1st. And in general what this is is
2 hopefully the final true-up study of two, I believe, that
3 we were required to do on an annual basis since the
4 implementation of this recovery charge. And I might add
5 that when we do our true-up study, we look at what we've
6 recovered to date actually and what we can forecast as
7 best possible the minutes of use that we have remaining
8 over the remaining period in order to recover the
9 remainder.

10 In this study we are looking at our final year of
11 recovery and, again, assuming that our crystal ball is
12 hopefully better than it has been in the past, we feel
13 that this rate will successfully recover the remaining
14 amounts amount of money which is approximately \$99,000
15 over the next 12 months. We monitor this on a monthly
16 basis. If we find, as we're getting closer to the
17 termination date, which is July 22nd of 2002, that if we
18 find that we're recovering more quickly than we should be,
19 we, as a matter of practice in this state as in other
20 states, we'll request that we terminate that charge as of
21 a given date where we feel we have full recovery.

22 CHAIRMAN BURG: That concludes what you have to
23 say?

24 MR. RUPRECHT: Yes.

25 CHAIRMAN BURG: Do I understand it that Harlan

1 called you and told you your rates weren't high enough?

2 MR. RUPRECHT: No. All he suggested was that the
3 study was in error, and I agreed with him.

4 CHAIRMAN BURG: Okay. Harlan.

5 MR. BEST: What I had requested was that the
6 company look at the minutes of use because what they had
7 forecast in prior -- in the prior study did not turn out
8 to be anywhere close to what was the actual. And they
9 were continuing to use the same type of methodology which
10 would have more minutes of use being used than what was
11 actually occurring and that's what in effect drove the
12 recovery rate to the new .00835 rate.

13 Staff would recommend accepting that rate for this
14 filing and would recommend the Commission approve.

15 CHAIRMAN BURG: Effective August 1?

16 MR. BEST: Effective August 1.

17 CHAIRMAN BURG: Any other comments or questions?
18 If not, I will move that the Commission approve the
19 proposed cost recovery at the rate of .00835 effective
20 August 1.

21 COMMISSIONER NELSON: I'd concur.

22 CHAIRMAN BURG: Okay. It has been approved.

23 TC01-069, in the matter of the filing for approval
24 of an adoption agreement between Qwest Corporation and
25 1-800-Reconex. Today, shall the Commission approve the

1 proposed adoption agreement?

2 Who's taking that for Qwest?

3 MR. WELK: Mr. Chairman, these are just standard
4 as part of the interconnection agreements that we file,
5 Mr. Chairman. I'm not aware of if there's any problems or
6 not. I haven't heard from Kelly on some of these. Some
7 of these Kelly has issues with COA's, but I'm not aware of
8 any issues.

9 CHAIRMAN BURG: Kelly.

10 MR. FRAZIER: There's no question regarding COA's.
11 Both companies have a proper COA for this. It has been
12 properly executed. The 20 days have passed for review
13 without comment, without any comment. So I would
14 recommend approval of the interconnection.

15 CHAIRMAN BURG: Any other comments or questions?
16 If not, I'll move we approve the proposed adoption
17 agreement in TC01-069.

18 COMMISSIONER NELSON: I'd concur.

19 CHAIRMAN BURG: Has been approved.

20 * * * * *

21 CHAIRMAN BURG: TC01-077, in the matter of the
22 filing for approval of an adoption agreement between Qwest
23 Corporation and Preferred carrier Services, Incorporated.
24 Today, shall the Commission approve the proposed
25 agreement? That would --

1 MR. FRAZIER: This one was originally going to be
2 set for disapproval, Commission. They don't have an
3 underlying COA. In 1998 they filed a similar
4 interconnection agreement and was told that they needed to
5 file for a COA before they filed these interconnections.
6 I tried to reach the company with the 1-800 number that
7 had provided and was referenced to a sex chat line. And
8 since I was also unable to get through at that time I had
9 some serious concerns. Since that time I have been
10 contacted by the company that they had given up the 800
11 number and had absolutely no control over the reassignment
12 of that number and they would be filing for a COA and
13 waiving the automatic ninety-day implementation.

14 With that in mind, I would defer this pending they
15 actually do get the COA applied for and I get a letter
16 saying they will re-waive the ninety days.

17 CHAIRMAN BURG: We will defer TC01-077.

18 TC01-090, in the matter of the filing for approval
19 of an adoption agreement between Qwest Corporation and
20 Williams & Company Communications, Incorporated. Today,
21 shall the Commission approve the proposed tariff?
22 Mr. Snoddy, do you have any comments on this one?

23 MR. SNODDY: No. It's an adoption of one already
24 on file. And, again, I think it was probably pending.

25 CHAIRMAN BURG: Kelly, anything?

1 MR. FRAZIER: Nothing. I'd recommend approval,
2 Commission.

3 CHAIRMAN BURG: I'll move we approve the proposed
4 agreement in TC01-090.

5 COMMISSIONER NELSON: Concur.

6 CHAIRMAN BURG: TC01-091, in the matter of the
7 filing by Qwest Corporation for approval of revisions to
8 its exchange and network services tariff. Today, shall
9 the Commission approve the proposed tariff changes?

10 Colleen, anything on this one?

11 MS. SEVOLD: Thank you, Mr. Chairman. This filing
12 was just -- would just affect any customers who subscribe
13 to the Lifeline Assistance Plan. And what this does is
14 increase the credit 65 cents for those customers and
15 that's because that's to offset the new subscriber line
16 charge that we all see on our bills that was raised 65
17 cents. So this filing increases the credits to Lifeline
18 customers by that same amount.

19 CHAIRMAN BURG: Heather, you had that one?

20 MS. FORNEY: I would just point out that the
21 proposed effective date for this was July 3rd of this
22 year. Qwest filed the changes to its tariff on July 2nd
23 with the proposed effective date of July 3rd. I'm under
24 the impression that the rates are in effect that are being
25 proposed were actually approved by the FCC. And so staff

1 would recommend an effective date of July 3rd, 2001, to
2 the tariff.

3 CHAIRMAN BURG: Okay. Any questions or comments
4 on that? I will move that we approve the proposed tariff
5 changes effective July 3rd, 2001, in TC01-091.

6 COMMISSIONER NELSON: Concur.

7 CHAIRMAN BURG: Has been approved.

8 (The hearing concluded at 2:40 p.m.)
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1 STATE OF SOUTH DAKOTA) IN CIRCUIT COURT
2) :SS
3 COUNTY OF STANLEY) SIXTH JUDICIAL CIRCUIT

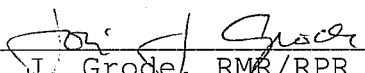
4 I, Lori J. Grode, Registered Merit Reporter and
5 Registered Professional Reporter and Notary Public in and
6 for the State of South Dakota:

7 DO HEREBY CERTIFY that the above hearing pages 1
8 through 18, inclusive, was recorded stenographically by me
9 and reduced to typewriting.

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

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

19 IN WITNESS WHEREOF, I have hereunto set my hand
20 and seal of office at Ft. Pierre, South Dakota, this 27th
21 day of July, 2001.

22 
23 _____
24 Lori J. Grode, RMR/RPR
25 Notary Public