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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

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IN THE MATTER OF THE COMPLAINT  
FILED BY MIKE MATTERN, ABERDEEN,  
SOUTH DAKOTA, AGAINST MCLEODUSA  
TELECOMMUNICATIONS SERVICES, INC.  
REGARDING POOR SERVICE

CT00-112

**ORIGINAL**

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Transcript of Proceedings  
January 17, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN  
LASKA SCHOENFELDER, COMMISSIONER

COMMISSION STAFF  
Rolayne Ailts Wiest  
Karen Cremer  
Kelly Frazier  
Leni Healy  
Charlene Lund  
Mary Giddings  
Harlan Best  
Keith Senger  
Dave Jacobsen  
Michele Farris  
Heather Forney  
Gregory A. Rislov  
William Bullard Jr.  
Sue Cichos

Reported By Cheri McComsey Wittler, RPR

**PRECISION REPORTING**  
**L I M I T E D**

1 APPEARANCES

2 Bob Miller, SD Electric Utility  
 3 Warren Lotsberg, Northwestern  
 4 Ron Leyendecker, Northwestern  
 5 Alan Dietrich, Northwestern  
 6 Tom Hitchcock, Northwestern  
 7 Jim Wilcox, Xcel Energy  
 8 Dave Gerdes, WorldCom  
 9 Larry Toll, Qwest  
 10 Colleen Sevold, Qwest  
 11 Jim Robbennolt, Comm South

12 APPEARANCES BY TELEPHONE

13 Dave Saville, Martin Group  
 14 Don Lee, Martin Group  
 15 Mary Lohnes, Midcontinent Communications  
 16 Tom Simmons, Midcontinent Communications  
 17 Steve Weigler, AT&T  
 18 Sandy Hofstetter, AT&T  
 19 Tim Geraghty  
 20 Barb Berkenpas, McLeodUSA  
 21 Tom Welk, Qwest  
 22 Cindy Grosvenor, Telec  
 23 Wendel Aanerud, Telec  
 24 Mike Mattern

25 = = = = =

TRANSCRIPT OF PROCEEDINGS, held in the  
 above-entitled matter, at the South Dakota State  
 Capitol, Room 468, 500 East Capitol Avenue, Pierre,  
 South Dakota, on the 17th day of January 2001,  
 commencing at 2:30 p.m.

1 CHAIRMAN BURG: CT00-112, In the  
2 matter of the Complaint filed by Mike Mattern,  
3 Aberdeen, South Dakota, against McLeodUSA  
4 Telecommunications Services, Inc. regarding poor  
5 service. Today shall the Commission add Qwest  
6 Communications as a party?

7 Mike, do you have any comments you want to  
8 make on this first?

9 MR. MATTERN: I had written on my  
10 calendar this was going to transpire tomorrow. I  
11 wasn't prepared for it today. Bear with me. Go  
12 ahead and proceed.

13 CHAIRMAN BURG: Okay. Colleen.

14 MS. SEVOLD: Thank you,  
15 Mr. Chairman. This is Colleen Sevold, Qwest  
16 Corporation, and we do not believe it would be  
17 appropriate to bring Qwest into this.

18 In my investigation I found we were notified  
19 on November 15, 1:39. On November 16, 7:10 a.m. we  
20 tested the line. It was okay at that time. We  
21 received another report that evening at 9:50, and  
22 the next morning we repaired it, put him on a new  
23 cable pair.

24 So we believe we were very responsive and  
25 should not be brought in.

1 CHAIRMAN BURG: What are the dates  
2 again?

3 MS. SEVOLD: 11-15 we were notified  
4 at 1:39, I believe, he was having intermittent  
5 trouble. 11-16 at 7:10 a.m. we tested the line.  
6 We received another report that evening at 9:50,  
7 and the next morning we put him on another cable  
8 pair so he would have no problems.

9 CHAIRMAN BURG: What on the 15th?

10 MS. SEVOLD: We were notified.

11 CHAIRMAN BURG: No contact was made  
12 that day?

13 MS. SEVOLD: No.

14 CHAIRMAN BURG: Contact was made the  
15 17th?

16 MS. SEVOLD: Actually on the 16th in  
17 the morning, and the line was okay at that time.  
18 So it was just, you know, a matter of probably  
19 seven hours between each time.

20 CHAIRMAN BURG: Okay. Who's taking  
21 this one?

22 MS. LUND: Chairman Burg and  
23 Commissioners Nelson and Schoenfelder, we have  
24 received a request from Mr. Mike Mattern to add  
25 Qwest to the outage Complaint against McLeod since

1 Qwest provided the technician service to make  
2 repairs.

3 Mr. Mattern with Mattern Electric in Aberdeen  
4 has a Complaint filed against McLeod and in the  
5 course of investigating what happened when he  
6 reported his phone outage we are discovering that  
7 Qwest has documented information regarding when  
8 they were notified for repairs, when repairs were  
9 made, and what repairs were made. This is  
10 essential information to investigating the  
11 Complaint.

12 Unless Qwest is added to the Complaint, the  
13 documents containing this information will not be  
14 available for the purposes of the hearing and a  
15 resolution.

16 Mr. Mattern and McLeod provided a different  
17 set of information regarding the nature of the  
18 outage. For example, Mr. Mattern reports there was  
19 no dial tone. McLeod reports he had a dial tone  
20 and only static. Qwest's information about the  
21 repairs could help to resolve the differences at  
22 this point.

23 So that's why we're supporting Mr. Mattern's  
24 request that Qwest be added, so we can get complete  
25 information on this outage.

1 MS. SEVOLD: If I could just add, we  
2 would be glad to furnish the repair reports without  
3 being brought in.

4 MS. LUND: We have asked for those  
5 repair reports, and we have not gotten them.

6 CHAIRMAN BURG: Mr. Mattern, do you  
7 have anything to add after hearing what the other  
8 parties said?

9 MR. MATTERN: I would pretty much  
10 agree with that, that I don't really have a problem  
11 with Qwest being brought in -- (Inaudible).

12 CHAIRMAN BURG: Excuse me. You  
13 broke up. You're supporting bringing them in?

14 MR. MATTERN: The only reason I  
15 brought them in is to get the information she just  
16 provided. I don't have a problem with Qwest. They  
17 were responsive. They showed up and fixed it. You  
18 know, it wasn't the problem getting them out here,  
19 which I identified with McLeod.

20 COMMISSIONER SCHOENFELDER: Well, I  
21 have a question for McLeod. I think Ms. Berkenpas  
22 can pass this along. Can't you get this  
23 information from Qwest?

24 MS. BERKENPAS: We have not been  
25 able to get it. It was suggested the best way for

1 us to get the information would be to have them  
2 added as a party to the Complaint so we could get  
3 some of the phone records that we need.

4 We have provided information that indicates  
5 that the customer was able to use their phone  
6 because they made a long distance call during the  
7 time that they claimed that they did not have a  
8 dial phone. But we would like more records so we  
9 can further investigate the situation.

10 CHAIRMAN BURG: Karen.

11 MS. CREMER: Colleen, in the past  
12 when -- this is Karen Cremer from staff. When  
13 we've asked for information we've always been told  
14 by Qwest before we can't have it because of  
15 confidentiality and privacy. So are you changing  
16 your position on that and we can get the  
17 information on that?

18 MS. SEVOLD: In this case I will say  
19 no one has asked me for that, but we have always  
20 said we would provide the information. We just  
21 need to submit a confidential letter from our  
22 attorney along with it.

23 But I do not know of a case where we have said  
24 we would not provide it.

25 MR. WELK: What we've said, we

1 cannot furnish that information voluntarily. All  
2 the party has to do is issue a subpoena, and what  
3 we've done in the past when either party -- either  
4 the staff wants it or the reseller, we just say,  
5 you know, if the Complainant has put their service  
6 at issue, then we believe they waive their  
7 confidentiality as to the relevant Complaint.

8 But we always want a subpoena. We just don't  
9 do it voluntarily. We don't need to be brought in  
10 as a party. All somebody has to do is cut a  
11 subpoena and contact Colleen or I, and we'll give  
12 them the information and make sure to the extent we  
13 can protect any confidentiality for other calls or  
14 other matters for the customer.

15 CHAIRMAN BURG: Charlene, do you  
16 think if you got that material, is that all you're  
17 really after here?

18 MS. LUND: Certainly the material is  
19 important. The material might limit the  
20 information that otherwise could be available if  
21 Qwest were brought in as a party, however.

22 COMMISSIONER SCHOENFELDER: I have a  
23 question of Counsel, and I want to know if we would  
24 take Mr. Welk's suggestion and use the subpoena  
25 route, is that up to McLeod's to issue the subpoena

1 or is it up to staff?

2 MS. AILTS WIEST: I think either  
3 party could. That's my understanding.

4 COMMISSIONER SCHOENFELDER: Thank  
5 you.

6 CHAIRMAN BURG: Anything else?

7 MS. AILTS WIEST: If no one is  
8 alleging Qwest has done anything wrong, I don't  
9 know that they're a party in this case.

10 MR. FRAZIER: My understanding is it  
11 was just to get records. One of the defenses that  
12 McLeod had brought up is there was intermittent  
13 service and one phone call was made.

14 I asked McLeod if we could get some type of  
15 detailed information as to calls coming in and out  
16 and McLeod said that's kept on microfiche and  
17 US West has all the information and there was some  
18 dispute about when the repair orders went out and  
19 there was so much conflicts it seemed inappropriate  
20 to report when things came out and back and what  
21 kind of calls came to and from Mr. Matter's phone.

22 COMMISSIONER SCHOENFELDER: Well, I  
23 guess I like the idea of not adding a party if we  
24 don't have to. I guess I would let staff and  
25 McLeod work out the subpoena thing. That's what I

1 would suggest we do at this time. I don't know if  
2 we need a motion or more discussion, whichever.

3 MS. AILTS WIEST: Right. I believe  
4 you would have to then deny the request to add them  
5 as a party.

6 COMMISSIONER SCHOENFELDER: I would  
7 move to deny to add Qwest as a party.

8 CHAIRMAN BURG: I will second it.  
9 And if there's any problem getting the  
10 documentation, I think we could have another  
11 request added if we can't get --

12 COMMISSIONER NELSON: I'm going to  
13 dissent because I think we've added other people  
14 for the same purpose in the past to get the  
15 information. I think they're much more limited so  
16 far if we don't make them a party.

17 CHAIRMAN BURG: Okay. The request  
18 to add Qwest Communications as a party has been  
19 denied on a 2 to 1 vote in CT00-112.

20 MR. WELK: I would ask whoever  
21 issues the subpoena to get a copy to Colleen and  
22 myself, and we will expedite the request.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING BY  
QWEST CORPORATION FOR APPROVAL  
OF ITS STATEMENT OF GENERALLY  
AVAILABLE TERMS

TC00-191

=====

Transcript of Proceedings  
January 17, 2001

=====

BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN  
LASKA SCHOENFELDER, COMMISSIONER

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Reported By Cheri McComsey Wittler, RPR

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APPEARANCES

Bob Miller, SD Electric Utility  
Warren Lotsberg, Northwestern  
Ron Leyendecker, Northwestern  
Alan Dietrich, Northwestern  
Tom Hitchcock, Northwestern  
Jim Wilcox, Xcel Energy  
Dave Gerdes, WorldCom  
Larry Toll, Qwest  
Colleen Sevold, Qwest  
Jim Robbennolt, Comm South

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Dave Saville, Martin Group  
Don Lee, Martin Group  
Mary Lohnes, Midcontinent Communications  
Tom Simmons, Midcontinent Communications  
Steve Weigler, AT&T  
Sandy Hofstetter, AT&T  
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Mike Mattern

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TRANSCRIPT OF PROCEEDINGS, held in the  
above-entitled matter, at the South Dakota State  
Capitol, Room 468, 500 East Capitol Avenue, Pierre,  
South Dakota, on the 17th day of January 2001,  
commencing at 2:30 p.m.

1 CHAIRMAN BURG: TC00-191, In the  
2 matter of the filing by Qwest Corporation for  
3 approval of its statement of generally available  
4 terms. Today how shall the Commission proceed?

5 Do we want to have Qwest -- does anybody have  
6 any comments on this Docket beyond what's been said  
7 already either on the phone or in the room?

8 MR. SIMMONS: Tom Simmons with  
9 Midcontinent Communications. I think back at the  
10 last meeting on January 4 we had expressed  
11 neutrality on this particular issue. And I just  
12 wanted to clarify what that might have meant.

13 From our position we're not, obviously,  
14 recommending any approval. There are numerous  
15 issues within the SGAT that I think need to be open  
16 for discussion. However, from our standpoint we  
17 are (Inaudible) sufficient cause to recommend  
18 disapproval either, as long as all the other  
19 conditions outlined in 252(f) of the Act remain  
20 intact, which means that, you know, the Commission  
21 still would have the right to (Inaudible) full  
22 discussion and maybe most importantly to us all  
23 other conditions of current interconnection  
24 agreements or the ability to negotiate amendments  
25 stay intact. So I just wanted to clarify our

1 position.

2 CHAIRMAN BURG: Any other comments  
3 from any parties? If not, I'm ready with a Motion.

4 I will move that the Commission not approve or  
5 disapprove of Qwest's SGAT filings at this time but  
6 allow it to go into effect subject to future  
7 Commission approval or disapproval.

8 With respect to any procedural schedule, I  
9 further move the Commission set a procedural  
10 schedule at a later date. The Commission can put  
11 this Docket on the agenda within the next few  
12 months to determine the status of other proceedings  
13 and other states and to be further updated by the  
14 parties concerning their position on how and when  
15 to proceed.

16 COMMISSIONER SCHOENFELDER: I'll  
17 second.

18 COMMISSIONER NELSON: Concur.

19 MS. AILTS WIEST: Before we go on, I  
20 did have one question of Qwest, and that was my  
21 understanding is this SGAT is continually being  
22 updated in the other proceedings. And does Qwest  
23 intend to update this?

24 MR. WELK: General Counsel, I'm not  
25 sure if every time they get an issue resolved

1 they're going to file an amendment, but I will tell  
2 you what I can do is find out -- I know they make  
3 filings from time to time in other jurisdictions,  
4 and I don't know if it's going to be every time one  
5 jurisdiction does that or not.

6 So the Answer to your question is I don't know  
7 how often they will do that.

8 MS. AILTS WIEST: Okay.

9 MR. WELK: But they've done it in  
10 other states.

11 MS. AILTS WIEST: That's all I have.  
12 The effect of the Commission's ruling is that the  
13 SGAT is going to go into effect because the  
14 Commission's taking no ruling.

15 MR. WEIGLER: AT&T will be most  
16 likely filing a Motion for reconsideration.

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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING FOR  
APPROVAL OF A RESALE AGREEMENT  
BETWEEN US WEST COMMUNICATIONS,  
INC. AND COMM SOUTH COMPANIES,  
INC.

TC00-109

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Transcript of Proceedings  
January 17, 2001

=====

BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN  
LASKA SCHOENFELDER, COMMISSIONER

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Reported By Cheri McComsey Wittler, RPR

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 Capitol, Room 468, 500 East Capitol Avenue, Pierre,  
 South Dakota, on the 17th day of January 2001,  
 commencing at 2:30 p.m.

1 COMMISSIONER NELSON: TC00-109.

2 MS. CREMER: That's mine. This is  
3 Karen Cremer from staff. Just a few minutes ago  
4 you approved a Certificate of Authority for  
5 Comm South Companies. This is the interconnection  
6 agreement, a resale agreement, between US West  
7 Communications and Comm South.

8 I don't know, Tom, if you need to refile that  
9 as Qwest. I have no idea. Staff would, however,  
10 recommend approval.

11 COMMISSIONER NELSON: Tom, do you  
12 have any comments?

13 MR. WELK: Well, thanks  
14 Commissioner. This did not go through my office.  
15 This is one of those old filings.

16 MS. CREMER: This is old.

17 MR. WELK: In the year 2001 they've  
18 been going through me. I'll be glad to have the  
19 interconnection group refile with a new name.

20 MS. CREMER: Do you know, Harlan, is  
21 that necessary?

22 MR. BEST: (Shakes head).

23 COMMISSIONER NELSON: Apparently  
24 staff says it's not necessary so I would move that  
25 the Commission approve the resale agreement

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proposed in TC00-109.

COMMISSIONER SCHOENFELDER: I'll  
second and remind Harlan they can't hear him shake  
his head.

THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

=====

IN THE MATTER OF THE FILING  
BY QWEST CORPORATION FOR  
APPROVAL OF REVISIONS TO ITS  
EXCHANGE AND NETWORK SERVICES  
TARIFF

TC00-203

=====

Transcript of Proceedings  
January 17, 2001

=====

BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
PAM NELSON, VICE CHAIRMAN  
LASKA SCHOENFELDER, COMMISSIONER

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1 COMMISSIONER NELSON: TC00-203.

2 MS. SEVOLD: Thank you,  
3 Commissioner. This is Colleen Sevold from  
4 Qwest Corporation, and this filing removes any  
5 reference from Sisseton Exchange out of our general  
6 exchange tariff. Sisseton was sold November 30,  
7 and this just takes it out of our tariff.

8 COMMISSIONER NELSON: Any other  
9 comments?

10 COMMISSIONER SCHOENFELDER: I would  
11 approve the filing in TC00-203.

12 COMMISSIONER NELSON: Second.

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THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE FILING  
FOR APPROVAL OF A SEVENTH  
AMENDMENT TO AN INTERCONNECTION  
AGREEMENT BETWEEN QWEST CORPORATION  
AND MCLEODUSA TELECOMMUNICATIONS  
SERVICES, INC.

TC00-204

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Transcript of Proceedings  
January 17, 2001

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BEFORE THE PUBLIC UTILITIES COMMISSION,  
JIM BURG, CHAIRMAN  
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1 COMMISSIONER NELSON: TC00-204.

2 MR. FRAZIER: This is an  
3 interconnection agreement. The original  
4 interconnection agreement here was approved by the  
5 Commission in TC99-057 on July 23, 1999. At that  
6 time it was found to be nondiscriminatory and that  
7 any party could opt into the interconnection  
8 agreement.

9 I agree it's in accordance with the FCC  
10 guidelines for negotiation and performance. It was  
11 found to be consistent with the public interest  
12 identified with our statutes in South Dakota of the  
13 telecommunications Act of 1996 and rules of the  
14 Commission and the FCC.

15 Again, these were dealt with in the original  
16 approval. My review shows it has been properly  
17 executed and that the 20-day response period has  
18 passed without comment and I would recommend  
19 approval of the Interconnection Agreement.

20 COMMISSIONER NELSON: I would move  
21 approval of the Interconnection Agreement proposed  
22 in TC00-204.

23 COMMISSIONER SCHOENFELDER: Second.  
24  
25

1 STATE OF SOUTH DAKOTA )

2 :SS

CERTIFICATE

3 COUNTY OF HUGHES )

4  
5 I, CHERI MCCOMSEY WITTLER, a Registered  
6 Professional Reporter and Notary Public in and for the  
7 State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed  
9 shorthand reporter, I took in shorthand the proceedings  
10 had in the above-entitled matter on the 17th day of  
11 January 2001, and that the attached is a true and  
12 correct transcription of the proceedings so taken.

13 Dated at Pierre, South Dakota this 24th day  
14 of January 2001.

15  
16  
17 Cheri M. Wittler

18 Cheri McComsey Wittler,  
19 Notary Public and  
Registered Professional Reporter