

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

**IN THE MATTER OF THE COMPLAINT FILED BY JOHN)
AND SHIRLEY HATCH, PIERRE, SOUTH DAKOTA,)
AGAINST QWEST COMMUNICATIONS, INC., WCS)
TELECOM AND WESTERN COMMUNICATIONS, INC.)
REGARDING UNAUTHORIZED BILLING FOR SERVICES)
)
)**

**ORDER DENYING QWEST'S)
MOTION TO DISMISS AND)
GRANTING COMPLAINANTS')
MOTION TO AMEND THE)
COMPLAINT)**

CT99-018

On July 26, 1999, the Public Utilities Commission (Commission) received a complaint filed by John and Shirley Hatch, Pierre, South Dakota (Complainants), against Qwest Communications, Inc. (Qwest). Complainants allege the unauthorized switching of their long distance service at a house they own in the Black Hills south of Lead, South Dakota.

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 August 17, 1999, the Commission considered this matter. Complainant John Hatch appeared before the Commission on this matter. The Commission found there was probable cause of an unlawful or unreasonable act, rate, practice or omission, and ordered that the complaint be forwarded to Qwest for an answer to be filed within twenty (20) days of service of the order. The order was dated August 26, 1999.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL 49- 13-1, 49-13-4, 49-13-13, 49-13-14.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-38 through 49-31-38.3, inclusive, 49-31-89 through 49-31-97, inclusive, and ARSD Chapter 20:10:34.

By order dated September 22, 1999, a hearing was scheduled for October 27, 1999, beginning at 1:00 o'clock P.M., in Room 412 of the State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota. On October 22, 1999, the Commission received a letter from the Complainants requesting that they be allowed to amend their complaint and that additional companies, namely WCS Telecom (WCS) and Western Communications, Inc. (Western) be added to their complaint. Due to this request the hearing was cancelled and shall be rescheduled for a later time.

On October 15, 1999, Qwest moved to dismiss the complaint against it.

On November 1, 1999, Complainants through John Hatch, and Qwest through its local counsel, Robert C. Riter, Jr., personally appeared before the Commission to argue their motions. The Commission voted to deny Qwest's motion to dismiss and grant Complainants' motion to amend the complaint. Commissioner Jim Burg dissented.

It is therefore

ORDERED, that (1) Qwest's motion to dismiss is denied and (2) Complainants shall be allowed to amend their complaint as requested, and that WCS and Western shall file with the Commission their answers in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 4th day of November, 1999.

<p>CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket</p>	<p>BY ORDER OF THE COMMISSION:</p> <p>JAMES A. BURG, Chairman, dissenting</p> <p>_____</p>
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service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: _____

Date: _____

(OFFICIAL SEAL)

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner