

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

IN THE MATTER OF THE COMPLAINT FILED))	ORDER DISMISSING
BY DONALD COOK, HURON, SOUTH))	BUDGET CALL LONG
DAKOTA, AGAINST BUDGET CALL LONG))	DISTANCE; ORDER FOR
DISTANCE, INC. REGARDING))	AND NOTICE OF HEARING
UNAUTHORIZED BILLING FOR SERVICES))	
AND NOR COMMUNICATIONS, INC.))	CT99-041
REGARDING UNAUTHORIZED SWITCHING OF))	
SERVICES))	

On September 28, 1999, the Public Utilities Commission (Commission) received a complaint filed by Donald Cook, Huron, South Dakota (Complainant), against Budget Call Long Distance, Inc. (Budget), regarding alleged unauthorized charges on his long distance bill. Complainant requests that the unauthorized charges be removed from his bill and that he be awarded \$1000 as provided by law.

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 October 7, 1999, at a duly noticed meeting, Mr. Cook explained his complaint against Budget. Budget's representatives explained the company's position in this matter. The Commission voted unanimously to find probable cause.

By order dated November 2, 1999, a hearing was scheduled for December 9, 1999, in Redfield, South Dakota. Budget filed its answer on November 8, 1999, requesting dismissal of the complaint and a continuance of this matter. On November 12, 1999, an Order Cancelling Hearing was filed.

On December 1, 1999, the Commission received a letter from Mr. Cook requesting that his complaint be amended to include NOR Communications. At its regularly scheduled December 14, 1999, meeting the Commission voted to grant the Complainant's request to amend the complaint and add NOR Communications as a respondent. A hearing was scheduled for January 19, 2000.

On January 18, 2000, Commission Staff was contacted by Complainant who informed the Staff that settlement had been reached with both Budget and NOR and he wished to have his complaint dismissed, so therefore the hearing was cancelled.

On January 10, 2000, the Commission received a Motion by Budget for Amendment of Caption of Proceeding. At its January 18, 2000, meeting, the Commission granted the motion and amended the caption regarding Budget to refer to the unauthorized billing of services instead of the unauthorized switching of services.

Mr. Cook notified Commission Staff on February 14, 2000, that the issue regarding unauthorized switching of services allegedly committed by NOR Communications, Inc. had not been resolved and he wished to have a hearing in this matter. Mr. Cook further informed Commission Staff that the issue regarding an unauthorized billing by Budget Call Long Distance had been resolved and he wished to have that matter dismissed.

At its regularly scheduled meeting of February 29, 2000, the Commission considered this matter. Commission Staff recommended that the matter against Budget Call Long Distance be dismissed and that a hearing be scheduled to hear the matter against NOR Communications. The Commission unanimously voted to dismiss the matter against Budget Call Long Distance and voted to schedule a hearing in the matter against NOR Communications.

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, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-89 through 49-31-97, inclusive, and ARSD Chapters 20:10:01 and 20:10:34.

A hearing shall be held on March 22, 2000, beginning at 1:30 o'clock P.M., in Room 412, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether NOR 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 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 NOR 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 the matter against Budget Call Long Distance be dismissed; and it is

FURTHER ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether NOR 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 6th day of March, 2000.

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>Aldine Kelbo</u>
Date:	<u>3/7/00</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