

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER FINDING
BY DAVID AND LISA NEUHARTH, FORT)	PROBABLE CAUSE AND
PIERRE, SOUTH DAKOTA, AGAINST EXCEL)	NOTICE REQUIRING
TELECOMMUNICATIONS, INC. REGARDING)	ANSWER
UNAUTHORIZED SWITCHING OF SERVICES)	CT99-048

On October 25, 1999, the Public Utilities Commission (Commission) received a complaint filed by David and Lisa Neuharth, Fort Pierre, South Dakota (Complainants), against Excel Telecommunications, Inc. (Excel), regarding alleged unauthorized switching of services. Complainants allege that a ranch bunkhouse phone on "vacation" status with the local carrier was, without their authorization, switched to Excel.

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 November 15, 1999, at a duly noticed meeting, Commission Staff recommended a finding of probable cause due to unresolved factual issues.

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, 49-31-11, 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 20:10:01:07.01 through 20:10:15:01, inclusive, and ARSD Chapter 20:10:34. The Commission voted unanimously to find probable cause. It is therefore

ORDERED, that pursuant to ARSD 20:10:01:09, the Commission finds that there is probable cause of an unlawful or unreasonable act, rate, practice, or omission and that the complaint shall be forwarded to Excel and Excel shall file with the Commission its answer in writing within twenty (20) days of service of this order.

Dated at Pierre, South Dakota, this 18th 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 service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: <u>Delaine Keels</u></p> <p>Date: <u>11/22/99</u></p> <p align="center">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner