

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

<b>IN THE MATTER OF THE COMPLAINT FILED )</b>	<b>FINDINGS OF FACT AND</b>
<b>BY KEVIN AND GAYLE SUING, SIOUX FALLS, )</b>	<b>CONCLUSIONS OF LAW;</b>
<b>SOUTH DAKOTA, AGAINST AT&amp;T )</b>	<b>NOTICE OF ENTRY OF</b>
<b>COMMUNICATIONS OF THE MIDWEST, INC. )</b>	<b>ORDER</b>
<b>REGARDING UNAUTHORIZED BILLING FOR )</b>	
<b>SERVICES )</b>	<b>CT99-043</b>

On October 4, 1999, the Public Utilities Commission (Commission) received a complaint filed by Kevin and Gayle Suing, Sioux Falls, South Dakota (Complainants), against AT&T Communications of the Midwest, Inc. (AT&T), regarding alleged unauthorized billing for services. The Complainants claim that they were billed by AT&T for unauthorized services. They seek to have all charges removed from their account and request that fines and penalties be assessed.

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 19, 1999, at a duly noticed meeting, Ms. Suing explained her complaint against AT&T. AT&T's representatives explained the company's position in this matter. The Commission voted unanimously to find probable cause.

A hearing was held as scheduled on November 30, 1999, beginning at 1:30 o'clock P.M., at the Oaks Hotel & Convention Center, 3300 W. Russell in the North Dakota Room, Sioux Falls, South Dakota. The issue at the hearing was whether AT&T committed an unlawful or unreasonable act, rate, practice, or omission and, if so, what relief would be appropriate. At the close of the hearing, the Commission voted unanimously that AT&T did not commit an unlawful or unreasonable act, practice, or omission.

Based on the testimony and evidence presented at the hearing, the Commission makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. On October 4, 1999, the Commission received a complaint filed by Kevin and Gayle Suing, Sioux Falls, South Dakota, against AT&T, regarding alleged unauthorized billing for services. The Complainants claim that they were billed by AT&T for unauthorized services.
2. Ms. Suing stated that her September telephone bill had a \$17.00 charge from AT&T. Tr. at 6-7. Ms. Suing stated that neither she or her husband authorized AT&T as their long distance carrier. Tr. at 7. She stated they have two cellular telephones so they have no need for a long distance carrier. Tr. at 8.
3. In response to this complaint being filed with the Commission, AT&T credited the Complainants' account for the \$17.00 charge and closed their account. Tr. at 15

4. Records submitted by AT&T show that the Complainants called AT&T to initiate service on October 21, 1998. Exhibit 1; Tr. at 61. The Complainants subsequently requested a new plan from AT&T on December 8, 1999. Exhibit 1; Tr. at 63-64.

5. Records submitted by AT&T further show that the Complainants paid their AT&T charges from the time they initiated service in October of 1998 until the September 1999 billing. Exhibit 2; Tr. at 70. AT&T was listed as the Complainants' interLATA toll provider on the Complainants' telephone bills. Exhibit 2; Tr. at 28. AT&T notified the Complainants on their bill that AT&T would not bill monthly if charges were less than \$30.00 for any one month but would instead bill every three months. Exhibit 2; Tr. at 40.

6. The Commission finds that the Complainants authorized AT&T as their interLATA toll provider and that AT&T properly billed the Complainants for telephone services.

#### CONCLUSIONS OF LAW

1. The Commission 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, 49-31-10, 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 Chapter 20:10:34.

2. Since the Complainants authorized AT&T as their interLATA toll provider and AT&T properly billed the Complainants for telephone services, the Commission finds that AT&T did not commit any unlawful or unreasonable acts, practices, or omissions.

It is therefore

ORDERED, that the Commission finds that AT&T did not commit any unlawful or unreasonable acts, practices, or omissions and this docket is closed.

#### NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 26th day of January, 2000. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 26th day of January, 2000.

<b>CERTIFICATE OF SERVICE</b>
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: _____
Date: _____
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

\_\_\_\_\_  
JAMES A. BURG, Chairman

\_\_\_\_\_  
PAM NELSON, Commissioner

\_\_\_\_\_  
LASKA SCHOENFELDER, Commissioner