

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

<b>IN THE MATTER OF THE COMPLAINT FILED</b>	)	<b>ORDER GRANTING MOTION</b>
<b>BY VERN L. DOUVILLE, CHAMBERLAIN,</b>	)	<b>TO DISMISS</b>
<b>SOUTH DAKOTA, AGAINST AMERICA'S TELE-</b>	)	
<b>NETWORK CORP. AND ILD TELESERVICES,</b>	)	<b>CT00-108</b>
<b>INC. REGARDING UNAUTHORIZED</b>	)	
<b>SWITCHING OF SERVICES</b>	)	

On November 13, 2000, the Public Utilities Commission (Commission) received a complaint filed by Vern L. Douville, Chamberlain, South Dakota (Complainant), against America's Tele-Network Corp. (ATN) regarding unauthorized switching of services.

On November 13, 2000, the complaint was faxed to ATN. Pursuant to ARSD 20:10:01:09, ATN was notified that it must satisfy the complaint or file an answer in writing with the Commission by December 4, 2000. On December 20, 2000, Complainant filed a request to add ILD Teleservices, Inc. (ILD) as a party. On January 4, 2001, the Commission granted Complainant's request to add ILD as a party. On January 24, 2001, ILD filed an Answer to Complaint, Motion to Dismiss and Cross-Claim. On February 5, 2001, ATN filed a letter response to this complaint.

On February 6, 2001, at a duly noticed meeting, Commission Staff recommended that the Commission grant the Motion to Dismiss.

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.

On February 6, 2001, at a regularly scheduled meeting, the Commission considered this matter. The Commission voted to grant the Motion to Dismiss (Pam Nelson, dissenting). It is therefore

ORDERED, that ILD's Motion to Dismiss is granted.

Dated at Pierre, South Dakota, this 13th day of February, 2001.

<p><b>CERTIFICATE OF SERVICE</b></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: _____</p> <p>Date: _____</p> <p align="center">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

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

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

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

## DISSENT OF COMMISSIONER NELSON

Vern Douville claims, in a complaint received November 13, 2000, that America's Tele-Network (ATN) unlawfully switched his toll service to ATN from AT&T. Mr. Douville further requested in a letter received December 20, 2000, that ILD Teleservices, Inc. (ILD) be added as a respondent to his complaint. The Commission considered his request during the January 4, 2001, meeting. The Commission voted unanimously to grant Mr. Douville's request to add ILD.

ILD subsequently filed a Motion To Dismiss (Motion) which was received January 24, 2001. The Motion was on our February 6, 2001, meeting agenda. ILD made a variety of assertions in its Motion, with possibly the most interesting being ILD's claim of being beyond our jurisdiction.

When perusing Douville's filed billings one finds ILD being displayed much more prominently than ATN. ILD is not limited to billing; it also collects for ATN. From Mr. Douville's filed perspective, although ATN illegally switched his service, ATN's biller/bill collector ILD appears more prominently on the bill and acts directly on the collection. Consequently, ILD provides easier access for certain data and information. ILD is a prominent link in the chain. ILD benefits, legal or otherwise, from ATN's reseller role.

Vern Douville asked that ILD be made a respondent. ILD is the company demanding his money for service he claims not to have requested. Mr. Douville's request made sense. We unanimously agreed with him. We did the right thing then. The majority have now decided to change their minds. I maintain my position and shall respectfully dissent.