

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

<b>IN THE MATTER OF THE COMPLAINT FILED )</b>	<b>ORDER FOR AND NOTICE</b>
<b>BY QUALITY INN, RAPID CITY, SOUTH )</b>	<b>OF HEARING</b>
<b>DAKOTA, AGAINST MCLEODUSA )</b>	
<b>TELECOMMUNICATIONS SERVICES, INC. )</b>	<b>CT02-017</b>
<b>REGARDING FAILURE TO PROVIDE SERVICE )</b>	

On May 15, 2002, the Public Utilities Commission (Commission) received a complaint filed by Quality Inn, Rapid City, South Dakota (Complainant), against McLeodUSA Telecommunications Services, Inc. (McLeod) regarding failure to provide service. On May 15, 2002, the complaint was faxed to McLeod. Pursuant to ARSD 20:10:01:09, McLeod was notified that it must satisfy the complaint or file an answer in writing with the Commission by June 4, 2002. On June 3, 2002, the Commission received an Answer from McLeod.

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 Chapters 20:10:01 and 20:10:34.

A hearing shall be held on November 19, 2002, beginning at 1:30 P.M. CST, in Room 464, State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

In the complaint, Complainant requests that the Commission award it damages in the amount of \$5,949.01 for damages caused by McLeod having committed the following alleged acts, errors, omissions, practices or breaches of contractual or other legal duty:

1. July 19, 2000 - Failed to initiate telephone service at time agreed between Complainant and McLeod for switch-over of service from Qwest, resulting in disconnection of service for 9 hour period from 3:00 a.m. to 12:00 p.m.
2. August 15, 2000 - Failed to initiate telephone service at time agreed between Complainant and McLeod for switch-over of service from Qwest, resulting in disconnection of service for 15 hour period from 6:00 a.m. to 9:00 p.m.
3. November 30, 2000 - Disconnected service on date other than date agreed for switch-over from Qwest, resulting in disconnection of service for 28.5 hour period from 10:30 a.m. until approximately 3:00 p.m. the following day.

The issues at the hearing are (i) whether, and to what extent, any of the alleged events occurred, (ii) to the extent that any of the alleged events did occur, whether McLeod thereby committed one or more unlawful or unreasonable acts, errors, practices or

omissions or breached a contractual or legal duty owing to Complainant, and (iii) if so, what amount of damages should be awarded to Complainant.

The hearing will 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 will 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 McLeod 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 a hearing shall be held at the time and place specified above on the issues of whether McLeod committed an unlawful or unreasonable act, rate, practice or omission or breached a contractual or other legal duty owing to Complainant and, if so, what amount of damages should be awarded to Complainant.

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 31<sup>st</sup> day of October, 2002.

<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:	<u>Heldaine Kaabo</u>
Date:	<u>10/31/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Robert K. Sahr  
ROBERT K. SAHR, Commissioner