

**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 JAMES ABOUREZK, SIOUX FALLS,</b>	)	<b>TO DISMISS; ORDER</b>
<b>SOUTH DAKOTA, AGAINST DIRECT ONE</b>	)	<b>DISMISSING COMPLAINT</b>
<b>COM.LONG DISTANCE REGARDING</b>	)	<b>AND CLOSING DOCKET</b>
<b>UNAUTHORIZED TELECOMMUNICATIONS</b>	)	
<b>PRODUCTS AND SERVICES AND</b>	)	<b>CT01-016</b>
<b>UNAUTHORIZED CHARGES</b>	)	

On April 30, 2001, the Public Utilities Commission (Commission) received a complaint filed by James Abourezk, Sioux Falls, South Dakota (Complainant), against Direct One Com.Long Distance (Direct One) regarding unauthorized telecommunications products and services and unauthorized charges.

On April 30, 2001, the complaint was faxed to Direct One. Pursuant to ARSD 20:10:01:09, Direct One was notified that it must satisfy the complaint or file an answer in writing with the Commission by May 21, 2001. Direct One contacted Commission Staff requesting an extension of time to file its answer until June 4, 2001, which Commission Staff granted. On August 3, 2001, the Commission received an answer from Direct One. On August 29, 2001, the Commission received a motion to continue hearing and to compel discovery from Direct One.

By order dated March 4, 2002, a hearing was scheduled for April 9, 2002, beginning at 1:30 P.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. On April 1, 2002, Commission Staff requested that the hearing be continued. The parties did not object to the continuance, so therefore the hearing was cancelled.

On May 10, 2002, the Commission received a motion to dismiss from Complainant. On May 16, 2002, the Commission received Direct One's conditional support of Complainant's motion to dismiss. On May 23, 2002, the Commission received Complainant's response to Direct One's conditional support of Complainant's 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 May 30, 2002, at a regularly scheduled meeting, the Commission considered this matter. The Commission voted to grant the motion to dismiss without prejudice. It is therefore

ORDERED, that Complainant's motion to dismiss shall be granted, the complaint shall be dismissed without prejudice, and the docket closed.

Dated at Pierre, South Dakota, this 7<sup>th</sup> day of June, 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><i>Wendine Kolbs</i></u>
Date: <u>6/10/02</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