BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE COMPLAINT FILED BY BLACK HILLS FIBERCOM, L.L.C., RAPID CITY, SOUTH DAKOTA, AGAINST QWEST CORPORATION REGARDING INTRASTATE SWITCHED ACCESS CHARGES APPLIED TO ISP-BOUND CALLS WHICH COMPLAINANT CLAIMS ARE INTERSTATE IN NATURE ORDER APPROVING STIPULATED AGREEMENT TO SCHEDULING ORDER

CT03-154

On October 29, 2003, the Public Utilities Commission (Commission) received a complaint filed by Black Hills FiberCom, L.L.C., Rapid City, South Dakota (Complainant), against Qwest Corporation (Qwest) regarding intrastate switched access charges applied to ISP-Bound calls which Complainant claims are interstate in nature.

On October 29, 2003, the complaint was faxed to Qwest. Pursuant to ARSD 20:10:01:09, Qwest was notified that it must satisfy the complaint or file an answer in writing with the Commission by November 18, 2003. On November 18, 2003, the Commission received an Answer and Counterclaim from Qwest. On December 9, 2003, the Commission received a Reply to Qwest's Counterclaim from FiberCom. On January 16, 2004, the Commission received a Stipulated Agreement to Scheduling Order from FiberCom.

The Commission finds that it has jurisdiction to enter this preliminary order pursuant to SDCL Chapters 1-26, 49-1, including 49-1-9 and 49-1-11, 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, 49-31-7, 49-31-7, 49-31-11, 49-31-18, 49-31-19 and 49-31-76, and ARSD Chapters 20:10:01, 20:10:24, 20:10:27, 20:10:28, 20:10:29 and 20:10:32.

On January 20, 2004, at a regularly scheduled meeting, the Commission considered the Stipulated Agreement to Scheduling Order. The Commission voted to approve the Stipulated Agreement to Scheduling Order, subject to the Commission verifying the availability of the hearing dates. The Commission having found no conflicts with the proposed hearing dates, it is therefore

ORDERED, that the Stipulated Agreement to Scheduling Order, attached hereto, is approved.

Dated at Pierre, South Dakota, this 28^{th} day of January, 2004.

CERTIFICATE OF SERVICE
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.
Date: 1/28/04
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

BERT K. SAHR, Chairman

Commissioner

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JAN 1 6 2004

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

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In the Matter of the Complaint Filed by Black Hills) FiberCom, L.L.C., Rapid City, South Dakota Against Owest Corporation Regarding Intrastate Switched Access Charges Applied to ISP-Bound Calls Which Complainant Claims is Interstate in Nature

CT 03-154 FIBERCOM AND QWEST STIPULATED AGREEMENT **TO SCHEDULING** ORDER

Counsel for Black Hills FiberCom, L.L.C. and Counsel for Qwest Corporation

have consulted and agreed that the following Scheduling Order be submitted to the South

Dakota Public Utilities Commission for approval at the scheduled January 20, 2004

Commission Meeting.

SCHEDULING ORDER

Date

Procedural Schedule

March 23-25, 2004

March 31, 2004

Taking of Depositions Deadline for Discovery

Week of April 26-30, 2004 [Or as agreed at the Commission Meeting, with an estimated time of hearing of three days]

Hearing

Respectfully submitted this 15th day of January, 2004.

By:

Marvin D. Truhe, Attorney at Law P.O. Box 8112 Rapid City, South Dakota 57709 (605) 348-8530 Attorney for Complainant Black Hills FiberCom, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on January 15, 2004, a true and correct copy of the foregoing

FiberCom and Qwest Stipulated Agreement for Scheduling Order was served via

Electronic Email, and also served via United States first class mail, postage prepaid, on

the following:

Thomas J. Welk Boyce, Greenfield, Pashby and Welk, L.L.P. P.O. Box 5015 Sioux Falls, SD 57717-5015

Tim Goodwin, Senior Attorney Qwest Services Corporation 1801 California Street 47th floor Denver, CO 80202

Marvin D. Truhe