

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

IN THE MATTER OF THE COMPLAINT FILED)	NOTICE OF MOTION FOR
BY ROGER L. HALL, RAPID CITY, SOUTH)	SUMMARY DISPOSITION;
DAKOTA, AGAINST QWEST CORPORATION)	ORDER FOR AND NOTICE
REGARDING THE COST OF TELEPHONE)	OF HEARING
LINE EXTENSIONS)	CT08-002

On April 14, 2008, the Public Utilities Commission (Commission) received a complaint filed by Roger L. Hall, Rapid City, South Dakota (Complainant), against Qwest Corporation (Qwest) regarding the cost of telephone line extensions.

On April 17, 2008, the complaint was electronically transmitted 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 May 5, 2008. On May 5, 2008, the Commission received an Answer and Motion to Dismiss from Qwest. On June 24, 2008, the Commission received Roger L. Hall's Response to Qwest'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 and ARSD Chapters 20:10:01.

On June 24, 2008, at a regularly scheduled meeting, the Commission considered the Motion to Dismiss. The Commission determined that the complaint did not fail to state a claim upon which relief could be granted and unanimously voted to deny the Motion to Dismiss.

On January 21, 2009, the Commission received a Motion to Adjust Procedural Schedule from Qwest. At its regularly scheduled meeting of January 27, 2009, the Commission granted the Motion to Adjust Procedural Schedule. On February 3, 2009, the Commission received a Motion for Summary Disposition of Complaint from Qwest.

The Commission has jurisdiction to consider and rule on the Motion for Summary Disposition of Complaint pursuant to SDCL 1-26-18, 15-6-56 and 49-2-10 and 49-31 and ARSD 20:10:09:03 and 20:10:09: 04.

A motion hearing will be held on the substantive issues raised by Qwest's Motion for Summary Disposition of Complaint beginning at the conclusion of the regularly scheduled 2:30 pm Public Utilities Commission meeting on February 24, 2009 in Rm. 413 of the State Capitol Building in Pierre, South Dakota. The parties and their attorneys may appear either in person or by conference call.

The issues at the hearing are: (i) whether the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, show that there is no genuine issue of material fact with respect to whether Complainant is responsible for the costs necessary to provide service extended from the Qwest Minimum Point of Presence to the new rental homes Complainant is installing on his property; and (ii) whether Qwest is therefore entitled to judgment as a matter of law as to this issue claiming Complainant is responsible for said cost.

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 may be forfeited if not exercised at the hearing. The Commission will consider all pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, and the arguments of counsel presented at the hearing and may grant, deny or grant in part and deny in part Qwest's Motion for Summary Disposition of Complaint. To the extent the Commission's decision results in a final decision or to the extent the decision results in an appealable interlocutory decision, it may be appealed by the parties to the circuit court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a motion hearing shall be held at the time and place and in the manner specified above, on the issues set forth above.

Dated at Pierre, South Dakota, this 13th day of February, 2009.

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, electronically.
By: <u> <i>Delaine Kalbo</i> </u>
Date: <u> <i>2/13/09</i> </u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

 Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman *etc*

 Steve Kolbeck
STEVE KOLBECK, Commissioner

 Gary Hanson
GARY HANSON, Commissioner