

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE FILING BY U S WEST) ORDER FOR AND NOTICE
COMMUNICATIONS, INC. REGARDING) OF HEARING AND
TELECOMMUNICATIONS COMPANY CERTIFICATION) PROCEDURAL SCHEDULE
) TC96-105**

On June 20, 1996, the Public Utilities Commission (Commission) received a complaint from U S WEST Communications, Inc. (U S WEST), concerning the establishment of the EdNet by the Sioux Falls School District. Sioux Falls Cable is the provider of the EdNet. U S WEST maintains that the provision of this service constitutes a telecommunications service. SDCL 49-31-3 and Commission rules require providers of telecommunications services to be certified. U S WEST has requested the Commission to investigate the matter and determine if Sioux Falls Cable must acquire a Certificate of Authority. A regularly scheduled meeting of August 13, 1996, the Commission voted to investigate this matter to determine if Sioux Falls Cable is subject to the certification requirements of the Commission. On December 9, 1996, a regularly scheduled meeting, the Commission directed the Executive Director to set a procedural schedule. The Commission granted Baltic Telecom Cooperative, Inc.'s Petition to Intervene a regularly scheduled April 28, 1997, meeting. The parties and Commission staff have stipulated to the facts and have filed two Stipulations of fact with the Commission. Further, the parties and Commission agreed to a briefing schedule wherein the parties and Commission staff submitted their arguments and authorities to the Commission for its consideration.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, and ARSD Chapter 20:10:01. The Commission may rely upon any or all of these or other laws of this state in making its determination.

The issue at this hearing is whether Sioux Falls Cable must obtain a Certificate of Authority to provide telecommunications services in South Dakota pursuant to SDCL § 49- 31-3 and Commission rules.

The procedural schedule for the hearing shall be as follows:

The hearing on the filing by U S WEST regarding telecommunications company certification shall be held on July 29, 1997, at 9:00 a.m., in Room 412 of the Capitol Building, Pierre, South Dakota, and will consist of oral arguments by the parties.

The hearing is an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to attend and represent themselves or be represented by an attorney. However, such rights and

other due process rights shall 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 testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20.

The Commission, after examining the evidence and hearing arguments presented by the parties, shall make Findings of Fact, Conclusions of Law, and a Final Decision. As a result of the hearing the Commission may either close this docket without ordering Sioux Falls Cable to obtain a Certificate of Authority or it may order Sioux Falls Cable to obtain such certification. The Final Decision made by the Commission may be appealed by the parties to the Circuit Court and the South Dakota Supreme Court as provided by law. It is therefore

ORDERED that a hearing consisting of oral arguments by the parties shall be held on the filing by U S WEST Communications, Inc. regarding telecommunications company certification at the time and place specified above.

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 11th day of July, 1997.

CERTIFICATE OF SERVICE

BY ORDER OF THE
COMMISSION:

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.

Commissioners Burg, Nelson and
Schoenfelder

By: _____

Date: _____

WILLIAM BULLARD, JR.

(OFFICIAL SEAL)

Executive Director

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