

Telecommunications Orders - Issued 1997

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

IN THE MATTER OF THE PETITIONS FOR ARBITRATION ON BEHALF OF DAKOTA TELECOM, INC., AND DAKOTA TELECOMMUNICATIONS SYSTEMS, INC. WITH U S WEST COMMUNICATIONS, INC.)	ORDER DISMISSING PETITION TC96-159
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On August 27, 1996, the Public Utilities Commission (Commission) received a Petition for Arbitration from Dakota Telecom, Inc. (DTI) between DTI and U S WEST Communications, Inc. (U S WEST) and a Petition to Mediate Negotiations for Dakota Telecommunications Systems, Inc. (DTS) between DTS and U S WEST. On September 23, 1996, the Commission received a Motion to Dismiss or, in the Alternative, the Response of U S WEST to DTI's Petition for Arbitration. On October 1, 1996, the Commission received DTI's Reply to U S WEST's Motion to Dismiss.

On October 1, 1996, the Commission received a Petition for Arbitration from DTS. The Petition requested the Commission to arbitrate the negotiations for interconnection between DTS and U S WEST. On October 24, 1996, the Commission received a Motion to Dismiss or, in the Alternative, the Response of U S WEST to DTS' Petition for Arbitration.

A prehearing conference was held on October 7, 1996. At the prehearing conference, the Commission decided to consolidate the two Petitions for Arbitration from DTS and DTI. The Commission issued an Amended Procedural Schedule; Order for and Notice of Hearing on October 18, 1996.

In its Petition for Arbitration filed August 27, 1996, DTI stated that it had requested negotiations with U S WEST on March 21, 1996. In its Petition for Arbitration filed October 1, 1996, DTS stated that it began negotiations with U S WEST on April 29, 1996. On November 4, 1996, the Commission received a letter from DTI and DTS stating that they had agreed with U S WEST that interconnection was first requested by DTI and DTS from U S WEST on June 1, 1996. On November 6, 1996, the Commission received a letter from DTI and DTS stating that they had first requested negotiations from U S WEST on August 1, 1996.

Pursuant to 47 U.S.C. §252(b)(1), a party to the negotiations may petition a state Commission to arbitrate any open issues during the period from the 135th to the 160th day after the date on which an incumbent local exchange carrier receives the request for negotiations.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, and 49-31 and the Telecommunications Act of 1996.

A regularly scheduled meeting on April 1, 1997, the Commission considered whether to dismiss both

Petitions for Arbitration due to the failure of any party to request arbitration during the period from the 135th to the 160th day after requests for negotiations had been made. Since the parties had agreed that DTS and DTI had requested negotiations with U S WEST on August 1, 1996, a party was required to request arbitration of open issues from this Commission during the period of December 14, 1996 to January 8, 1997. The Commission unanimously voted to dismiss the Petitions. No such request for arbitration was made to this Commission. It is therefore

ORDERED, that the Petitions for Arbitration filed by DTS and DTI are dismissed.

Dated at Pierre, South Dakota, this 16th day of April, 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.

JAMES A. BURG, Chairman

By: _____

PAM NELSON, Commissioner

Date: _____

(OFFICIAL SEAL)

LASKA SCHOENFELDER,
Commissioner

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