

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

IN THE MATTER OF THE COMPLAINT )  
FILED BY WILLOW LAKE ELEVATOR, )  
WILLOW LAKE, SOUTH DAKOTA, )  
AGAINST U S WEST COMMUNICATIONS, )  
INC. REGARDING TELEPHONE SERVICE )  
OUTAGES AND INADEQUATE SERVICE )

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW;  
NOTICE OF ENTRY OF ORDER

TC98-007

IN THE MATTER OF THE COMPLAINT )  
FILED BY GALEN WALDNER, )  
CARPENTER, SOUTH DAKOTA, AGAINST )  
U S WEST COMMUNICATIONS, INC. )  
REGARDING TELEPHONE SERVICE )  
OUTAGES AND INADEQUATE SERVICE )

TC98-008

IN THE MATTER OF THE COMPLAINT )  
FILED BY DICK GLANZER, CARPENTER, )  
SOUTH DAKOTA, AGAINST U S WEST )  
COMMUNICATIONS, INC. REGARDING )  
TELEPHONE SERVICE OUTAGES AND )  
INADEQUATE SERVICE )

TC98-009

IN THE MATTER OF THE COMPLAINT )  
FILED BY REGAN GLANZER, CARPENTER, )  
SOUTH DAKOTA, AGAINST U S WEST )  
COMMUNICATIONS, INC. REGARDING )  
TELEPHONE SERVICE OUTAGES AND )  
INADEQUATE SERVICE )

TC98-010

IN THE MATTER OF THE COMPLAINT )  
FILED BY MIKE MADSEN, CARPENTER, )  
SOUTH DAKOTA, AGAINST U S WEST )  
COMMUNICATIONS, INC. REGARDING )  
TELEPHONE SERVICE OUTAGES AND )  
INADEQUATE SERVICE )

TC98-011

IN THE MATTER OF THE COMPLAINT )  
FILED BY CLAUDE GLANZER, )  
CARPENTER, SOUTH DAKOTA, AGAINST )  
U S WEST COMMUNICATIONS, INC. )  
REGARDING TELEPHONE SERVICE )  
OUTAGES AND INADEQUATE SERVICE )

TC98-012

IN THE MATTER OF THE COMPLAINT )  
FILED BY KEITH GLANZER, CARPENTER, )  
SOUTH DAKOTA, AGAINST U S WEST )  
COMMUNICATIONS, INC. REGARDING )  
TELEPHONE SERVICE OUTAGES AND )  
INADEQUATE SERVICE )

TC98-016

On January 20, 1998, the Public Utilities Commission (Commission) received a complaint filed by the Willow Lake Elevator, Willow Lake, South Dakota (Complainant) against U S WEST Communications, Inc. (U S WEST). The Complainant stated: "The Willow Lake Elevator is in the process of installing a new fully integrated, on line, real time, computer system. We have several remote locations and one of those locations is Carpenter. The Elevator would like to have a fully dedicated, local line from Carpenter to Willow Lake. The two different telephone companies (ITC & U S WEST) said that this could not be done. We live a total of 14 miles from each other and are in the same county, yet we cannot communicate locally. Our business is expanding at a rapid rate over the past 4 years. In order for us to stay competitive we need to upgrade our computer equipment. We also need the ability to respond to the needs of our customers. This can only be done by improving our communications. The current communications is impeding our ability to find new customers in this area of the county. By being able to respond quickly to their needs, we will grow." The Complainant requests that the system be replaced with new cable (fiber optic or digital) to replace the old system. Complainant is also requesting a local dedicated line from Carpenter to Willow Lake.

On January 20, 1998, the Commission received a complaint filed by Galen Waldner, Carpenter, South Dakota, against U S WEST. Mr. Waldner wrote: "In December of 1997 we tried to hook up to the Internet partially for education benefits for my children and partially for our farming and insurance business. We could not get the Internet to work. We could get our information out but could not get the information back because of our phone lines. After talking to people from U S WEST they basically said our service was working well for voice and there was nothing they would do. For the educational benefits for my children and the well being of my business we would really like to see the phone lines improved." Mr. Waldner is requesting that U S WEST be required to put new phone lines in the Carpenter area.

On January 20, 1998, the Commission received a complaint filed by Dick Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "We tried to get on the Internet with 2 different providers, and after much time and aggravation found out that we were unable to get connected because of 'antique' phone lines. Can't take advantage of caller ID. When we have a power outage we also lose our telephone. This is dangerous in case of an emergency. Fax machines are extremely slow or sometimes don't work properly." Mr. Glanzer is requesting that U S WEST bury new phone lines in the affected area.

On January 20, 1998, the Commission received a complaint filed by Regan Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "I cannot get Caller ID as the phone lines are old and also cannot get in the Internet. Also when the electricity goes out the phone goes out so 911 services are gone." Mr. Glanzer has requested that steps be taken to correct the problem, to put in new phone lines or whatever it takes. Mr. Glanzer states that he pays the bill just like the other customers but does not receive the same services or as many options.

On January 20, 1998, the Commission received a complaint filed by Mike Madsen, Carpenter, South Dakota, against U S WEST. Mr. Madsen stated: "We cannot get Caller ID. Phone rings alot and when you answer, no one is there. Can't get our computer on the Internet. Phone connection is poor, have alot of double talk or alot of static. Would like to add a second line and phone company says we can't. When electricity goes out, phones die within a couple of hours so we can't even make emergency calls." Mr. Madsen is requesting that the phone lines be updated.

On January 20, 1998, the Commission received a complaint filed by Claude Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "The U S WEST telephone lines serving our farm cannot supply us with services that we are in need of and are being charged to us on our local phone bill. We cannot get Internet, Caller Id, and a second line. Noisy phone lines. If electricity is cut off '911' won't work." Mr. Glanzer is requesting that the phone lines be replaced or updated.

On January 30, 1998, the Commission received a complaint filed by Keith Glanzer, Carpenter, South Dakota, against U S WEST. Mr. Glanzer stated: "We purchased a computer for home and business use in August of 1997. At the same time we signed up for internet service for the information available and mail. Upon several attempts it was discovered that internet use was not possible over our phone line with U S WEST. U S WEST technicians checked our line and said it was fairly good considering our location. We also found out that a standard phone line does not have a guaranteed data rate. On Oct. 28, 1997, we ordered an ISDN line which the U S WEST salesperson told us was available. After repeated calls U S WEST told us on Jan. 8, 1998, that no ISDN line could be provided to us. I am a Pioneer Seed Salesperson and during this time Pioneer had the sales staff migrated to laptop PCs with on line communication with Pioneer. After receiving training and the laptop it was discovered (after several days of customer support with Pioneer) that it was impossible to utilize this system due to our poor phone line. At this point in time U S WEST seems unwilling to upgrade the Slick 40 serving our area or improve the cable plant. Consequently our need for a good quality phone line seems impossible to achieve in U S WEST service area. I would ask the PUC that they would apply pressure to U S WEST to improve our phone line so that we might have acceptable levels of data transmission."

On February 3, 1998, at its duly noticed meeting, the Commission reviewed all of the complaints except for Docket TC98-016. On February 10, 1998, at its duly noticed meeting, the Commission reviewed the complaint in Docket TC98-016. The Commission voted unanimously to find probable cause and served the complaints on U S WEST. U S WEST filed its Answer to Complaints on March 5, 1998.

By orders dated March 12, 1998, the hearing for all of the above-listed dockets was scheduled for April 2, 1998, at the Crossroads Hotel and Convention Center, Huron, South Dakota. The hearing was held as scheduled.

At its May 12, 1998, meeting, the Commission considered this matter. The Commission voted unanimously to find that U S WEST has committed an unreasonable or unlawful act, practice, or omission in its failure to provide to the Carpenter Complainants adequate telephone service. The

Commission ordered U S WEST to replace the current SLC 40 system in the Carpenter area with three NEC digital line carrier systems. The Commission found that this replacement is necessary for the improvement of telecommunications service in the Carpenter area and the convenience of the Complainants.

Based on the evidence and testimony presented to the Commission, the Commission makes the following Findings of Fact and Conclusions of Law:

#### FINDINGS OF FACT

1. The Complainant in docket TC98-007 is the Willow Lake Farmers Elevator. A branch of the Willow Lake Farmers Elevator is located in Carpenter, South Dakota [hereinafter referred to as Carpenter Elevator]. Tr. at 9. Crystal Grann, office manager for the Willow Lake Farmers Elevator in the Willow Lake location, testified on behalf of the Carpenter Elevator. *Id.* The Willow Lake Farmers Elevator is a 25 million dollar business, with a large part of the growth from the expanded trade area in and around Carpenter. Tr. at 10.

2. A point of sale computer system was set up at each of Willow Lake Farmers Elevator's three locations. Tr. at 9. The program never worked at the Carpenter Elevator so Ms. Grann contacted U S WEST to inquire about getting a four-wire, two-way communication dedicated leased line between Carpenter and Willow Lake. Tr. at 10. She was quoted a hook-up fee of \$450.00 and a monthly charge of \$161.45. *Id.* She asked to get this in writing and when two months later U S WEST had not responded, she called again and was eventually told that a leased line would cost \$50,000.00 in extra construction because the lines in the Carpenter area were obsolete. Tr. at 11. The Carpenter Elevator currently uses a random dial-up method due to the prohibitive cost of the leased line. *Id.* It sometimes takes three to five times to make a connection, the quality varies, the data transfer is extremely slow, and the connection is sometimes broken. Tr. at 11, 12.

3. In order to provide the Carpenter Elevator with a dedicated line, U S WEST would have to run a separate new line from the Carpenter Elevator to the exchange boundary and then it would be powered from the Willow Lake central office which is operated by another local exchange company, ITC. Tr. at 11, 194-195. Normally, a dedicated line is run from the company's central office to the customer. Tr. at 193. However, this normal method of provisioning a dedicated line cannot be used with a SLC 40 system because it is incapable of effectively running data over the lines. Tr. at 194.

4. Due to the obsolete lines located in Carpenter, the Carpenter Elevator will not be able to fully use the new \$80,000.00 computer system that will be in place in July. Tr. at 12. Ms. Grann stated that improved lines would help their economic development. Tr. at 27-28.

5. A company that the Carpenter Elevator does business with stated that it can connect to the Carpenter Elevator at only 2,400 baud on a good day, usually at 1,200 baud, and has been unable to connect at any speed down to 800 baud. Tr. at 13.

6. Although Ms. Grann stated that she was complaining about data transmission problems, she also stated that she has problems with disrupted communications and voice quality, but that they just put up with that. Tr. at 18. She said screeching and static sounds have been common for the last five years. Tr. at 24-25. U S WEST has fixed the problem but it is a temporary fix. Tr. at 26. The Carpenter Elevator is unable to get CLASS features such as Caller ID. Tr. at 27.

7. The Commission finds that the Carpenter Elevator is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality

such as screeching and static sounds; (2) disrupted communications; (3) slow and inadequate data transmission; (4) inability to receive a dedicated line from the central office; (5) inability to receive CLASS services; and (6) inability to effectively use its new computer system.

8. Galen Waldner, the Complainant in Docket TC98-008, lives a quarter mile from Carpenter. Tr. at 39, 41. He could not get the Internet hooked up at his home. Tr. at 39-40. He got a second line to use for the Internet which he is currently paying for but it is not being used due to his inability to access the Internet. Tr. at 42. He wanted access to the Internet for his business and for his children. Tr. at 44, 46. He attempted to find out why he could not access the Internet by calling U S WEST but they were unable to give him an answer. Tr. at 43.

9. Galen Waldner occasionally would get a bad connection and experienced static and problems with audibility on his telephone line. Tr. at 44.

10. The Commission finds that Galen Waldner is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to access the Internet; and (2) occasional problems with his voice quality such as static and with audibility.

11. Dick Glanzer, the Complainant in Docket TC98-009, lives a few miles from Carpenter, South Dakota. Tr. at 50-51. He stated his biggest complaint was that he is unable to access the Internet and believes his children are disadvantaged as a result. Tr. at 50-51, 55, 58.

12. Dick Glanzer also stated that his telephone will not work when the power has been off for awhile. Tr. at 54. He occasionally has static on his telephone line, hears other voices talking on the line, or has trouble hearing the other person. Tr. at 56.

13. The Commission finds Dick Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to access the Internet; (2) telephone does not work when the power is out; and (3) problems with voice quality such as static, cross-talk, and audibility.

14. Regan Glanzer, the Complainant in Docket TC98-010, lives near Carpenter, South Dakota. Tr. at 61, 62. Mr. Glanzer wanted Caller ID. Tr. at 61. U S WEST stated that it was available in his area and sent out a Caller ID box but it did not work. Id. He has not had much trouble with his voice grade quality, but his telephone has been out of order a few times. Tr. at 62-64. He also has experienced problems with audibility. Tr. at 64-65. He requested that the line be updated and that he would be able to get Caller ID. Tr. at 66.

15. The Commission finds Regan Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) inability to receive Caller ID; (2) telephone outages; and (3) problems with audibility.

16. Mike Madsen, the Complainant in TC98-011, resides in rural Carpenter, South Dakota. Tr. at 68. He is also the branch manager at the Carpenter Elevator. Id. He stated that he has a lot of voice problems with his telephone. Tr. at 68, 74. He believes that it is caused by moisture getting in the line. Tr. at 68. Once, when a construction crew cut a telephone line, they discovered the line was only four to five inches in the ground. Tr. at 69. Sometimes the telephone will only ring once even though there is still someone on the line. Tr. at 70. The telephone also does not work at times and this appears to be related to the weather. Id. In addition, it sometimes sounds like he is talking into a tin can when he uses his telephone. Id. He also hears others talking on the telephone. Tr. at 70.

17. Internet service providers have told Mr. Madsen that they have had little luck in hooking people up to the Internet in the Carpenter area. Tr. at 71. In addition, a family member, who lives on a farm next to Mr. Madsen's, was unable to obtain Caller ID. Tr. at 71, 81. Mr. Madsen was unable to call an elderly uncle to check on him during a blizzard because the telephones did not work. Tr. at 79-80.

18. The Commission finds Mike Madsen is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk and poor tone; (2) telephone outages; (3) telephone stops ringing even when someone is still on line; and (4) inability to access the Internet.

19. Claude Glanzer, the Complainant in TC98-012, lives a few miles from Carpenter, South Dakota. Tr. at 82-83. Although Russell Evans, U S WEST's engineering manager, stated that since Claude Glanzer was close to the SLC 40 system he would have more capability to use his computer, Mr. Glanzer stated that he was unable to get on the Internet. Tr. at 82, 132, 187-188, 244; U S WEST Exhibit 2. Mr. Glanzer believes his children are disadvantaged by not having access to the Internet and he is disadvantaged in his business also. Tr. at 86-87. He was also unable to get Caller ID. Tr. at 82.

20. Claude Glanzer has trouble with voice quality. Id. He hears cross-talk on the lines and static which sometimes causes him to have to hang up and try again. Tr. at 82, 87-88. He has also experienced telephone outages. Tr. at 87. He has not complained every time he has experienced a problem because he does not want to be a "pain in the neck." Tr. at 87-88. He has lived there all his life and has become accustomed to the problems. Tr. at 82, 88. He requested that the line be upgraded so he can use the Internet, obtain Caller ID, and improve the voice quality of the line. Tr. at 90.

21. The Commission finds Claude Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk; (2) telephone outages; (3) inability to obtain Caller ID; and (4) inability to access the Internet.

22. Keith Glanzer, the Complainant in TC98-016, lives seven miles from Carpenter, South Dakota. Tr. at 91. He has experienced problems with noises and cross-talk. Tr. at 92. A few years ago he could actually listen to other people talking on the telephone and understand them. Id. That problem was fixed but now the problem is recurring and he can hear other voices on the line again. Id. It is common for a caller to tell Mr. Glanzer that it is difficult to hear him over the telephone line. Tr. at 94. He stated that he often just puts up with the cross-talk and does not complain to U S WEST about it. Tr. at 96

23. Keith Glanzer upgraded his computer so he could obtain access to the Internet but he was unable to receive access due to the telephone line. Tr. at 92-93. As a Pioneer sales representative he is supposed to use a laptop computer but it does not work due to the telephone line. Tr. at 93. As a result he had to return the computer. Tr. at 103. He needs reliable telephone lines for his economic livelihood. Tr. at 100. He attempted to obtain ISDN and U S WEST assured him he could receive ISDN. Tr. at 93. Three months later, however, U S WEST admitted it could not provide him ISDN. Id.

24. The Commission finds Keith Glanzer is being provided inadequate telecommunications services by U S WEST for the following reasons: (1) problems with voice quality such as cross-talk, noise, inability to hear people; (2) inability to obtain ISDN; (3) inability to effectively use his computer; and (4) inability to access the Internet.

25. Although U S WEST's records showed that ten cases of trouble were reported by the Complainants, these trouble reports did not include complaints concerning the inability to obtain Caller ID or effective use of computers. Tr. at 146. Moreover, some of the Complainants stated that they often did not complain about telephone problems because they did not want to be a bother or they had become accustomed to the problems. Tr. at 18, 87-88, 96.

26. Colleen Sevoid, U S WEST's manager of regulatory affairs, stated that when she called all of the Complainants, with the exception of the Carpenter Elevator, she asked about their voice line quality and was told they did not have a problem, except for some outages. Tr. at 210-213. However, rather than relying on hearsay testimony, the Commission finds that it will rely on the direct testimony provided by the Complainants at the hearing which revealed that they did experience voice quality problems.

27. Russell Evans, U S WEST's engineering manager, stated that the Carpenter area is currently served by a Subscriber Line Carrier (SLC) 40 system. Tr. at 132, 133, 137. The entire SLC 40 system consists of three remotes and five systems with each system working off a DS-1 or a T-1 line. Tr. at 137. He stated that at each remote it is divided into 40 analog, voice grade channels, with 124 working lines and a capacity for 200 channels. Tr. at 137, 139, 145. There are 12 spare channels for the Carpenter area. Tr. at 148. The remote that feeds the Carpenter area is a mile and one-half south and two miles west of Carpenter. Tr. at 141.

28. The SLC 40 system has limited capabilities because the T-1 line is divided into 40 channels. Tr. at 140. The further away from the remote, the lower the baud rate. Id. If a person is able to get access to the Internet, it is very slow. Tr. at 140-141. ISDN is not capable of being provided on a SLC 40 system. Tr. at 141-142. In order to provide ISDN a new system would have to be constructed. Tr. at 142. The new system would consist of three NEC digital line carrier systems. Tr. at 148, 182.

29. Mr. Evans stated that a SLC 40 system is capable of providing voice grade service within the 300 to 3,000 hertz range. Tr. at 152, 164. However, after the filing of these seven complaints, he did not do any testing on the Carpenter lines to see if the lines were in fact operating within that range. Tr. at 165. He stated that the service network interface, which is where the drop terminates, should have a voltage of 48 volts. Tr. at 177.

30. Steve Wegman, analyst for the Commission, stated that SLC 40 systems had a short shelf life. Tr. at 249. The systems probably were not installed after 1982. Id. A SLC 40 system is a four byte, adaptive Delta modulation which does not pass data very well. Tr. at 246. He was not sure if a SLC 40 system operates between 300 to 3,000 hertz. Tr. at 248. However, he did state that 9,600 bytes per second equates back to 300 to 3,000 hertz for the bandwidth and that a SLC 40 system is unable to operate at 9,600 bytes per second. Tr. at 247.

31. Mr. Wegman did some limited testing in Pierre, Huron, and the Carpenter area. Tr. at 249. He used an MQT data grabber that checks modem speeds, signal to noise, dB loss, error rates, and bytes sent. Id. The modem takes digital signal data and converts it into a voice signal. Tr. at 255-256. The testing is referred to as the testing of data transmission or may be referred to as the testing of voice signal. Id.

32. The testing in Pierre showed zero error rates and the voltage at the plugs was 49 to 50 volts. Tr. at 250. He stated that the voltage rate was good because it should be at minus 48 volts dc or minus 49 volts. Id. In Huron the testing again showed no error rates with a voltage of minus 50 volts and minus 49 volts. Id.

33. In the Carpenter exchange he could not get a connection on two of the telephone lines. Id. He stated the voltage on those two lines was 42.9 volts and 39 volts. Tr. at 250-251. On the other three lines he tested he was able to connect but the error rate was over 40 percent. Tr. at 251. He stated that this error rate could be due to a SLC 40 condition or to a high signal loss rate which could lead to noise on the line. Id. The lowest voltage he received was 37 volts which may explain why the telephone may not ring correctly. Id. He stated that sometimes he had a good voice connection in the Carpenter area but that other times he did not, and said that could be dependent on what channel was being used at that time. Tr. at 262-263. He recommended that the SLC 40 system be replaced by an NEC system. Tr. at 253.

34. The Commission finds that the telecommunications system is producing an unacceptable error rate when tested. The Commission finds that some of the lines have unacceptably low voltage rates. The Commission finds that the telecommunications system in the Carpenter area is outdated and has not been shown to operate between 300 to 3,000 hertz.

35. U S WEST currently has 1,052 customers that cannot receive Caller ID. Tr. at 179. However, in U S WEST's investment plan U S WEST agreed to expand CLASS services "to all remaining USWC exchanges in South Dakota over two years." Exhibit 5, page 1. This would have required CLASS to be in all U S WEST exchanges by the end of 1997. Id. at page 10. Customers on a SLC 40 system are incapable of receiving Caller ID which is part of CLASS services. Tr. at 178-179. Ms. Sevold's interpretation of the language in the investment plan was that it "provides for the expansion of CLASS to all remaining U S WEST exchanges, not customer's exchanges, which to me would be the central office." Tr. at 226. However, an exchange encompasses a specific geographic area that is served by a local exchange company. There is no such thing as a customer exchange as opposed to a company exchange and an exchange is obviously not limited to central offices; it encompasses all of the customers within the exchange. Therefore, U S WEST has failed to provide CLASS services to all customers within its exchanges, including the exchange that encompasses the Carpenter area.

36. Children of the Complainants are disadvantaged by being unable to access the Internet at their homes. Tr. at 237. Teachers from the Willow Lake School District stated that students from the Carpenter area do not have the same opportunities as the other students in the school district. Tr. at 235-236; Exhibit 6.

37. The Commission finds that the telecommunications system that serves the Carpenter area is detrimental to the Complainants' economic well-being and also raises safety concerns.

38. The Commission finds that the telecommunications system that serves the Carpenter area is not providing reliable, adequate, telecommunications services. Specifically, the Commission finds that the telecommunications system is not providing adequate voice grade telecommunications services. The Commission further finds that the telecommunications system is providing inadequate and slow data transmission resulting in the inability of the Complainants to effectively use faxes and computers and the inability to access the Internet. The Commission finds that the telecommunications system is unable to provide ISDN and CLASS services.

39. The Commission finds that the Complainants are being provided inadequate telecommunications services and this is detrimental to the public interest. U S WEST has committed an unreasonable act or practice in its failure to provide the Complainants with an adequate, reliable telecommunications system.

40. U S WEST's costing model showed that to replace the system would cost around \$211,000.00. Tr. at 143-144. Originally U S WEST stated it would cost around \$55,000.00 but later



found out it would have to replace 22 repeaters and three separate NEC type cabinets which increased the cost to around \$211,000.00. Tr. at 143-144, 167.

41. Although U S WEST claimed it could not recover this investment through rates charged to the Carpenter Complainants, rates charged to end users are not based on the costs of the infrastructure located within each exchange. U S WEST has traditionally recovered investments in infrastructure through averaged rates. The Commission recognizes that U S WEST is currently under price regulation and has agreed to price caps pursuant to its settlement agreement in Docket TC94-121, In the Matter of the Petition of U S WEST Communications, Inc. to have its Noncompetitive Services Regulated as Provided for in SDCL § 49-31-4.1. However, that settlement agreement does not provide that any future investments in infrastructure are to be recovered through rates charged to end users who specifically benefit from that infrastructure.

42. The Commission finds that due to the inadequate and unreliable telecommunications system currently in place in the Carpenter area, U S WEST shall replace that system with three NEC digital line carrier systems prior to the end of this construction season. The Commission finds the replacement is necessary to protect the public interest. The Commission finds the replacement is necessary for the improvement of telecommunications service and the convenience of the public. The Commission finds the replacement is necessary, reasonable, and expedient in order to promote the safety, convenience, and accommodation of the public.

43. The Commission rejects U S WEST's proposed Findings of Fact and Conclusions of Law.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:07.01 through 20:10:01:15.01, inclusive.

2. The Commission orders U S WEST to replace the current inadequate telecommunications system with three NEC digital line carrier systems.

3. Pursuant to 49-31-7, the Commission finds the replacement is necessary to protect the public interest. The Commission further finds that the replacement is necessary for the improvement of telecommunications service and the convenience of the public.

4. Pursuant to SDCL 49-31-7 and 49-31-7.1, the Commission finds the replacement is necessary, reasonable, and expedient in order to promote the safety, convenience, and accommodation of the public.

5. Pursuant to SDCL 49-31-7 and 49-31-7.1, the Commission orders U S WEST to complete the installation of three NEC digital line carrier systems in the Carpenter area prior to the end of this year's construction season.

6. The Commission rejects U S WEST's proposed Findings of Fact and Conclusions of Law.

It is therefore

ORDERED, that the Commission finds that U S WEST has committed an unreasonable rate or practice by its failure to provide the Complainants with adequate, reliable telecommunications service; and it is

FURTHER ORDERED, that U S WEST shall replace the current telecommunications system in the Carpenter area with three NEC digital line carriers prior to the end of this year's construction season.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 19<sup>th</sup> day of June, 1998. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 19<sup>th</sup> day of June, 1998.

<p>CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: <u>Helaine Kolbo</u></p> <p>Date: <u>6/19/98</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner