

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

IN THE MATTER OF THE PETITION FOR AN)	ORDER DEFERRING
ORDER DIRECTING U S WEST)	ACTION INDEFINITELY AND
COMMUNICATIONS, INC. TO FILE UPDATES)	MAKING APPLICATION FOR
TO ITS EXCHANGE AND NETWORK)	RECLASSIFICATION OF
SERVICES CATALOG, ACCESS SERVICE)	INTRALATA SERVICES
CATALOG, ADVANCED COMMUNICATIONS)	
SERVICES CATALOG AND PRIVATE LINE)	TC98-187
TRANSPORT SERVICES CATALOG)	

On October 26, 1998, Staff of the Commission petitioned the Commission to issue an Order requiring U S WEST Communications, Inc., to file updates to its Exchange and Network Services Catalog, Access Service Catalog, Advanced Communications Services Catalog and Private Line Transport Services Catalog. Based on a letter received from U S WEST on February 24, 1999, the Commission issued an amended Hearing Notice which clarified the matters to be heard at the hearing. Then, on March 5, 1999, U S WEST sent another letter to the Commission. The letter indicated that its "affidavit no longer reflects the position of U S WEST." The letter raised the question of expanding the issues before the Commission and stated that "... an expanded hearing will necessitate some discovery and more extensive preparation." A hearing on all issues raised in this docket was held on April 27, 1999.

The Commission, upon reviewing Staff's Post-Hearing Brief and U S WEST's Post-Hearing Reply Brief, at its regular meeting held August 17, 1999, in Room 413, State Capitol, Pierre, South Dakota, determined that:

1. The Docket places before the Commission issues fundamental to its statutory duty to require telecommunications companies subject to SDCL 49-49-31-12.2 to provide notice of rate changes, and for emerging competitive telecommunications services subject to SDCL 49-31-12.5 to give 20-days notice of a new price, change in price, or practice; and

2. The Docket identifies potential conflicts between the Commission's statutory duty to require such notice or the filing of tariffs and language found at SDCL 49-31-84; and

3. The use of websites by telecommunications companies to comply with filing requirements represents a change in practice deserving consideration; and

4. Whether a service provided by a telecommunications company has become "emerging competitive" or "fully competitive" is a determination that must be made by the Commission, and not by a company, pursuant to SDCL 49-31-3.2; and

5. U S WEST remains the only telecommunications company doing business in South Dakota not exempt from the filing requirements as provided by SDCL 49-31-5.1, applying to "independent telephone companies serving less than 50,000 subscribers"; and

6. This Docket includes the issue of whether U S WEST is required to file catalogs with the Commission for changes to its intraLATA toll offerings; and

7. Since the July 1999, implementation of intraLATA dialing parity throughout South Dakota, it appears that intraLATA toll may have become competitive; and since a reclassification of intraLATA services from "emerging competitive" to "fully competitive" would render moot some of the issues raised in this docket (emphasis added),

THE COMMISSION ORDERS that action on this Docket be deferred indefinitely, and further

UPON ITS OWN MOTION, as permitted by SDCL 49-31-3.2, applies to have intraLATA toll and wide-area telephone services reclassified from "emerging competitive" to "fully competitive," and that this application be in a form that contains information addressing the five considerations described at SDCL 49-31-3.2:

- (1) The number and size of alternative providers of the service and the affiliation to other providers;
- (2) The extent to which services are available from alternative providers in the relevant market;
- (3) The ability of alternative providers to make functionally equivalent or substitute services readily available at competitive rates, terms, and conditions of service;
- (4) The market share, the ability of the market to hold prices close to the cost, and other economic measures of market power; and
- (5) The impact on universal services.

It is therefore

ORDERED, that the Executive Director of the Commission open a new docket concerning its application, provide notice of hearing to all interested parties, including telecommunications companies doing business in South Dakota and the public at large, and to instruct Commission Staff to submit briefs or other documentation describing its position regarding the Commission's application for the described reclassification; and it is

FURTHER ORDERED, that all aspects of SDCL 49-31-3.2 be complied with, including the requirement that the application must be acted upon within 90 days, unless one additional 90-day period is permitted for good cause.

Dated at Pierre, South Dakota, this 26th day of August, 1999.

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.	
By:	<u><i>Debra Kaelbs</i></u>
Date:	<u>8/27/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner
dissenting