

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING MOTIONS
BY BASEC.NET, HURON, SOUTH DAKOTA,)	FOR EXPEDITED
AGAINST U S WEST COMMUNICATIONS, INC.)	RESPONSE TIME;
AND FIRSHEL, INC. REGARDING BILLING)	GRANTING MOTION FOR
ISSUES)	CONTINUANCE; AND
)	DENYING MOTION TO
)	STRIKE
)	TC98-194

On October 26, 1998, the Public Utilities Commission (Commission) received a complaint by Marvie Tschetter of Basec.Net, Huron, South Dakota (Basec.Net), against U S WEST Communications, Inc. (U S West) and FirsTel, Inc. (FirsTel). Basec.Net states that it purchased an existing business and contacted U S WEST to continue customer access through T-1 lines. U S WEST informed Basec.Net it could not take over payment of the lines unless the previous owner's debt was paid in full. Basec.Net decided to move the equipment and obtain services through FirsTel. After obtaining the services, Basec.Net was informed by U S WEST that they would be charged for installation/construction fees, the old billings of the previous owner, and additional charges for monthly service until other options were available. Neither U S WEST nor FirsTel disclosed these costs prior to providing service. FirsTel offered a plan with minimal installation fees but could not offer the service for 15-20 days which would not allow Basec.Net's customers access to their services. Basec.Net seeks the following relief: "1) Require U S WEST to inform promptly of facilities issues. 2) Some sort of financial compensation for loss of revenue."

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On November 3, 1998, at its duly noticed meeting, the Commission reviewed the complaint. The Commission voted unanimously to find probable cause and served the complaint on U S WEST and FirsTel. U S WEST filed its Answer to Complaint and Counterclaim on November 30, 1998. FirsTel filed its Answer to Complaint of Basec.Net and Cross Claim against U S WEST Communications, Inc., on November 30, 1998. Basec.Net filed its Answer to U S WEST's Counterclaim on December 11, 1998. U S WEST filed its Answer to Cross-Claim of FirsTel on December 18, 1998.

By order dated December 30, 1998, the Commission set the hearing for January 19-20, 1999, beginning at 8:30 o'clock A.M., on January 19, in the City Commission Room, 222 East Dakota, Pierre, South Dakota.

On December 30, 1998, the Commission received a motion from U S WEST requesting an order requiring Basec.Net to serve its responses to U S WEST's Request for Production of Documents via overnight delivery on or before January 12, 1999. At its January 6, 1999, meeting, the Commission considered the motion. Basec.Net did not oppose the motion. The Commission unanimously voted to grant the motion.

On January 5, 1999, the Commission received from Basec.Net two Motions for Orders Requiring Expedited Response Time. The motions requested that U S WEST and FirsTel be ordered to respond to Basic.Net's Subpoenas Duces Tecum by January 12, 1999. On January 6, 1999, U S WEST filed with the Commission its Response to Basec.Net's Motion for Expedited Response Time; a Motion for a Continuance of the Hearing, or, in the Alternative, for a Protective Order; and a Motion to Strike Requests for Irrelevant and Proprietary Information.

At its January 11, 1999, meeting, the Commission considered the motions. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-2, 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, 49-31-10, 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 20:10:01:28, inclusive. After listening to arguments of the parties, the Commission unanimously ruled as follows: 1) Basec.Net's Motions for Orders Requiring Expedited Response Time are denied; 2) U S WEST's Motion for a Continuance of the Hearing is granted and the hearing scheduled for January 19-20, 1999, is cancelled; and U S WEST's Motion to Strike Requests for Irrelevant and Proprietary Information is denied. The parties were also directed to work out any necessary protective agreements. It is therefore

ORDERED, that Basec.Net's Motions for Orders Requiring Expedited Response Time are denied; and it is

FURTHER ORDERED, that U S WEST's Motion for a Continuance of the Hearing is granted and the hearing scheduled for January 19-20, 1999, is cancelled; and it is

FURTHER ORDERED, that U S WEST's Motion to Strike Requests for Irrelevant and Proprietary Information is denied.

Dated at Pierre, South Dakota, this 15th day of January, 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>Delaine Kaabo</u>
Date:	<u>1/19/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner