

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY BRENT AND DAWN BARTON, MINA, SOUTH DAKOTA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING UPDATING LINES))))))	ORDER CANCELLING HEARING TC98-137
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On July 24, 1998, the Public Utilities Commission (Commission) received a complaint filed by Brent and Dawn Barton, Mina, South Dakota (Complainants), against U S WEST Communications, Inc. (U S WEST). The Complainants state: "We have lived in this area for 14 years and had problems for several years . . . we don't have a phone for 2-3 days at a time. [W]hen the phone is working, there's so much static you can't hear the person talking." The Complainants requested the following relief: "U S WEST needs to put in new phone lines. Also, to be compensated for the many years of problems with our phone lines, by the phone company."

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 August 4, 1998, at a duly noticed meeting, U S WEST stated that the problem area that the Complainants complained of was scheduled to be updated by October 31, 1998. The Commission voted unanimously to find probable cause. As U S WEST stated that the facilities that serve the Complainants will be updated this year, the Commission deferred any action on the complaint until October 31, 1998. The Commission also decided to defer any action on the issue of damages until October 31, 1998. By letter dated October 15, 1998, U S WEST informed the Commission that the Mina Lake project had been completed and all the customers were cut over to the new system. At its regularly scheduled November 3, 1998, meeting, the Commission deferred this matter until Commission Staff confirmed with the Complainants how they wanted to proceed with their damages claim. At its regularly scheduled November 25, 1998, meeting, Commission Staff reported that the Complainants wanted to proceed with the damages portion of their complaint. The Commission ordered that U S WEST file its answer to the complaint within 20 days. U S WEST filed its Answer to the Complaint on December 28, 1998.

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. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing was scheduled for January 22, 1999, beginning at 11:00 a.m., at the Aberdeen

Development Corporation, East Business Park, 416 Production Street North, Aberdeen, South Dakota.

On January 11, 1999, the Commission received a letter from the Complainants requesting that their complaint be withdrawn. It is therefore

ORDERED, that the hearing set to begin January 22, 1999, at 11:00 a.m., at the Aberdeen Development Corporation, East Business Park, 416 Production Street North, Aberdeen, South Dakota, is cancelled.

Dated at Pierre, South Dakota, this 20th day of January, 1999.

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: _____

(OFFICIAL SEAL)

WILLIAM BULLARD, JR.

Executive Director