

## Telecommunications Orders - Issued 1999

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

<b>IN THE MATTER OF THE COMPLAINT FILED BY SHERYL L. KLEIN, VALENTINE, NEBRASKA, AGAINST U S WEST COMMUNICATIONS, INC. REGARDING POOR SERVICE AND A REQUEST TO HAVE LINES UPDATED</b>	) ) ) ) ) ) )	<b>ORDER FOR AND NOTICE OF HEARING  TC98-183</b>
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On October 8, 1998, the Public Utilities Commission (Commission) received a complaint filed by Sheryl L. Klein, Valentine, Nebraska (Complainant), against U S WEST Communications, Inc. (U S WEST) regarding poor service. Complainant outlines a series of service outages, repair difficulties, outdated service, phantom calls, and staffing issues. Complainant requests upgrading of U S WEST facilities. Complainant also requested damages for loss of phone service and associated stress and hassles.

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 a duly noticed meeting, the Commission considered this matter. The Commission voted unanimously to find probable cause. U S WEST filed its answer on November 30, 1998.

The hearing was held on February 3, 1999, beginning at 1:30 P.M., at Cherry-Todd Electric Cooperative, West Highway 18, Mission, South Dakota. The Commission also heard the complaints filed against U S WEST in dockets TC98-184, TC98-199, and TC98-212, since those complaints concern the same general area as this complaint. At the hearing, U S WEST stated that it would do testing and any necessary repairs and report to the Commission. U S WEST filed updates on April 2, 1999 and May 7, 1999. In its April 2, 1999, update, U S WEST reported that it needed to replace part of the buried cable and stated it would take around 90 days to get the cable, make the replacements, and test the system.

A May 12, 1999, meeting, the Commission unanimously voted to require U S WEST to complete its repairs and testing by June 8, 1999. On June 4, 1999, the Commission received a Motion to Extend Deadline from U S WEST. U S WEST requested that an extension be granted until July 30, 1999, for the completion of all cable work and testing of all carrier systems on the route. A June 8, 1999, meeting, the Commission considered how to proceed. After listening to comments from the parties, the Commission voted to grant the extension until July 30, 1999. The Commission further voted that if U S WEST fails to meet the July 30, 1999, deadline, the Commission shall issue a show cause order as to why U S WEST should not be fined \$1000.00 per day for each day the work remains uncompleted after July 30, 1999. The Commission also voted to hold another hearing after July 30, 1999, to take additional testimony as to the Complainant's quality of service.

The Commission again considered this matter a August 17, 1999, regularly scheduled meeting. A report was given by both U S WEST and complainants who noted that service problems still exist. 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, 49-31-61, and ARSD Chapter 20:10:33.

A hearing shall be held on November 4, 1999, beginning at 1:30 P.M., at Cherry-Todd Electric Cooperative, West Highway 18, Mission, South Dakota. All persons so testifying will be subject to cross-examination by the parties. The order of the proceeding will be in the following sequence: (1) Complainant; (2) U S WEST; and (3) Staff.

The issues at the hearing are: (1) If the quality of service being provided by U S WEST since July 30, 1999, has been reliable and adequate; and (2) If U S WEST has failed to provide reliable and adequate service since July 30, 1999, what action should now be taken by the Commission.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether U S WEST committed an unlawful or unreasonable act, rate, practice, or omission; and specifically, whether U S WEST has been providing adequate and reliable service since July 30, 1999, and, if not, what relief may be appropriate. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held at the time and place specified above on the issue of whether U S WEST committed an unlawful or unreasonable act, rate, practice or omission; specifically, whether U S WEST has been providing adequate and reliable service since July 30, 1999; and if not, what relief would be appropriate.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours before the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 27th day of September, 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: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER, Commissioner

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