

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING
BY DON JIRACEK ON BEHALF OF G.S.A.)	PETITIONS FOR
INC., RAPID CITY, SOUTH DAKOTA, AGAINST)	REHEARING; NOTICE OF
MCLEODUSA TELECOMMUNICATIONS)	ENTRY OF ORDER
SERVICES, INC. REGARDING INADEQUATE)	
SERVICE)	TC98-196

On November 2, 1998, the Public Utilities Commission (Commission) received a complaint filed by Don Jiracek on behalf of G.S.A. Inc., Rapid City, South Dakota (Complainant), against McLeodUSA Telecommunications Services, Inc. (McLeod). Complainant alleges a variety of service interruptions and customer service issues against McLeod, and argues a breach of contract. The Complainant is requesting that it be reimbursed for its business losses.

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 December 7, 1998, the Commission considered this matter. The Commission voted unanimously to find probable cause and served the complaint on McLeod. An Amended Complaint was filed on December 10, 1998. The Commission permitted the filing of the Amended Complaint by Order dated December 18, 1998. McLeod filed its Answer to Complaint on January 7, 1999.

A hearing on this matter was held April 15, 1999, before the Commission in Rapid City, South Dakota. On August 18, 1999, the Commission issued its Findings of Fact and Conclusions of Law. The Commission ordered McLeod to pay the following damages: the sum of \$4.38 related to "failure of transmission," as limited by McLeod's filed tariff; the sum of \$2,000.00 for damages related to McLeod's failure to respond in a timely manner to G.S.A.'s repeated requests for corrective action; and the sum of \$1,083.54 for damages related to McLeod's switching G.S.A. to its long-distance service in a manner that deprived G.S.A. of a one-month period of free service from N.O.S.

On September 14, 1999, G.S.A. filed a Petition for Rehearing regarding the Findings of Fact and Conclusions of Law concerning the award of damages to G.S.A. On September 24, 1999, Commission Staff filed a Petition for Rehearing Regarding Damages. On October 1, 1999, McLeod filed a response opposing the Petitions for Rehearing. At its November 15, 1999, meeting, the Commission listened to the arguments of the parties and took the matter under advisement. At its December 14, 1999, meeting, the Commission voted unanimously to deny the Petitions for Rehearing. Pursuant to ARSD 20:10:01:29, the Commission does not find sufficient reason to grant the Petitions for Rehearing. It is therefore

ORDERED, that the Petitions for Rehearing are denied.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 21st day of December, 1999. 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 21st day of December, 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: *Delaine Kalko*

Date: 12/23/99

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER