

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

IN THE MATTER OF THE ESTABLISHMENT)	ORDER SETTING
OF DIFFERENT RATES FOR)	PROCEDURE AND SCOPE
INTERCONNECTION AND UNBUNDLED)	OF DOCKET; ORDER FOR
NETWORK ELEMENTS IN AT LEAST THREE)	AND NOTICE OF HEARING
GEOGRAPHIC AREAS FOR NONRURAL)	
TELECOMMUNICATIONS COMPANIES)	TC99-106

In August of 1996, the Federal Communications Commission (FCC) issued its Local Competition Order implementing section 251 of the federal Telecommunications Act of 1996. Section 51.507(f) required each state commission to establish different rates for interconnection and unbundled network elements (UNEs) in at least three geographic areas within the state to reflect geographic cost differences. The Eighth Circuit subsequently stayed and then vacated the deaveraging rule. Based on those decisions, the Commission did not establish different rates for different geographic areas. However, in January of 1999, the U. S. Supreme Court reversed the Eighth Circuit's decision. On May 7, 1999, the FCC stayed the effectiveness of the rule in order to allow states additional time to comply with the rule. By order released November 2, 1999, the FCC ruled that the stay will be lifted on May 1, 2000. *In the Matter of the Federal-State Joint Board on Universal Service*, CC Docket 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, FCC 99-306, paragraph 120 (rel. Nov. 2, 1999). The order provides that by May 1, 2000, "states are required to establish different rates for interconnection and UNEs in at least three geographic areas pursuant to section 51.507(f) of the Commission's rules." *Id.*

At its November 15, 1999, meeting, the Public Utilities Commission (Commission) considered how to proceed in this matter. After listening to comments from interested persons, the Commission decided to request written comments on how to proceed from interested persons or entities. The Commission received comments from AT&T Communications of the Midwest, Inc. (AT&T), U S WEST Communications, Inc. (U S WEST), and the South Dakota Independent Telephone Coalition, Inc. (SDITC).

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-31, specifically 49-31-3 and 49-31-81, and the Telecommunications Act of 1996, specifically 47 U.S.C. §§ 251 and 252. At its February 2, 2000, meeting, the Commission again considered how to proceed with this docket. The Commission decided as follows: (1) that this proceeding be limited to nonrural companies since the rural companies in South Dakota are currently exempt from 47 U.S.C. § 251(c) requirements; (2) that the Commission proceed with a contested case type proceeding as opposed to a rulemaking; and (3) that the Commission use the rates as established in the U S WEST/AT&T interconnection agreement as the bases for the setting of deaveraged rates. Although AT&T proposed, and U S WEST agreed, that geographic deaveraging need only be applied to the UNE loop at this time, the Commission will leave it open to the parties as to whether they will advocate that other rates be subject to geographic deaveraging as well.

The Commission sets the following procedural schedule:

Intervention Deadline	February 9, 2000
Simultaneous Prefiled Testimony	February 16, 2000
Simultaneous Rebuttal Testimony	March 7, 2000

A hearing shall be held on March 15, 2000, beginning at 8:30 A.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issues at the hearing are how shall the Commission establish different rates for interconnection and UNEs in at least three geographic areas within the state to reflect geographic cost differences for nonrural telecommunications companies, and which rates should be deaveraged.

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 that was 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 may establish different rates for interconnection and UNEs in at least three geographic areas within the state to reflect geographic cost differences for nonrural telecommunications companies. 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 issues of how shall the Commission establish different rates for interconnection and UNEs in at least three geographic areas within the state to reflect geographic cost differences for nonrural telecommunications companies, and which rates should be deaveraged.

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 prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 4th day of February, 2000.

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>Helaine Kelbo</i></u>
Date: <u>2/4/00</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