

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

IN THE MATTER OF THE FILING FOR) APPROVAL OF A RESALE AGREEMENT) BETWEEN QWEST CORPORATION AND) FLATEL, INC.)	ORDER DISAPPROVING AGREEMENT TC00-169
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On October 6, 2000, the South Dakota Public Utilities Commission (Commission) received a filing from Qwest Corporation (Qwest) for approval of a negotiated resale agreement between Qwest and Flatel, Inc. (Flatel) pursuant to 47 U.S.C. §§ 252(a)(1) and 252(e).

On October 12, 2000, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until October 26, 2000, to do so. No comments were filed.

At its duly noticed April 17, 2001, meeting, the Commission considered whether to approve the resale agreement between U S WEST and Flatel. Commission Staff recommended not approving the agreement as Flatel did not have a certificate of authority to provide local service in South Dakota.

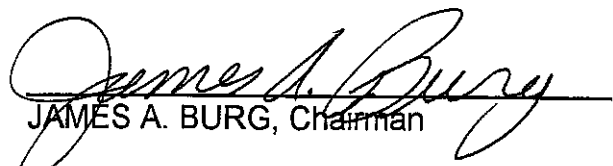
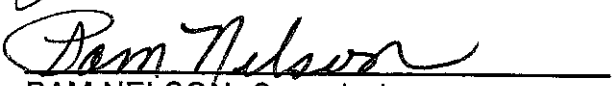
The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-81, and the Federal Telecommunications Act of 1996. Upon review of the agreement, the Commission found that pursuant to 47 U.S.C. § 252(e)(2)(A), the implementation of this agreement would be inconsistent with the public interest, convenience, and necessity. It is therefore

ORDERED, that pursuant to 47 U.S.C. § 252(e) and SDCL 49-31-81, the Commission does not approve the resale agreement which is the subject of this docket.

Dated at Pierre, South Dakota, this 24th day of April, 2001.

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>Nelaine Kalbo</i></u>
Date:	<u>4/24/01</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

 _____ JAMES A. BURG, Chairman
 _____ PAM NELSON, Commissioner