

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

IN THE MATTER OF THE PETITION OF THE)	ORDER FOR AND NOTICE
SOUTH DAKOTA DEPARTMENT OF)	OF HEARING
TRANSPORTATION FOR A DECLARATORY)	
RULING REGARDING SDCL 49-31-1.1)	TC02-100

On August 5, 2002, the South Dakota Public Utilities Commission ("Commission") received a Petition for Declaratory Ruling from the South Dakota Department of Transportation (Petitioner) requesting the Commission to make a declaratory ruling on the following question: Is 511 a noncompetitive service as defined by SDCL 49-31-1.1, so as to give rise to Commission price regulation in accordance with SDCL 49-31-4 and 49-31-1.4? The Petition states that Petitioner has been approved by the Federal Highway Administration for its 511 Traveler Information Telephone Number Program Support Assistance Program to deploy a statewide 511 number providing travel information services.

On August 8, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of March 14, 2002, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on August 9, 2002. At its regularly scheduled meeting on August 15, 2002, the Commission granted intervention to Qwest. By electronic filings on August 19, 2002, Petitioner and Qwest agreed to waive the 10-day notice of hearing requirement of ARSD 20:10:01:22.02 in order to accommodate the Commission's schedule and enable the Commission to meet the 30-day decision requirement of ARSD 20:10:01:35. The Commission finds that there is good cause to set the matter for hearing on less than ten days notice.

The Commission has jurisdiction over this matter pursuant to SDCL 1-26-15, ARSD 20:10:01:34 and 20:10:01:35, SDCL 49-1-11 and SDCL Chapter 49-31, particularly 49-31-3, 49-31-1.1 through 49-31-1.4, inclusive, 49-31-4 and 49-31-4.1.

A hearing on the petition for declaratory ruling will accordingly be held on August 29, 2002, beginning at 1:30 p.m. CDT in Room 412 of the Capitol Building, 500 East Capitol, Pierre, South Dakota.

As a result of this hearing, the Commission will determine whether the 511 service proposed by Petitioner is a noncompetitive service as defined by SDCL 49-31-1.1, so as to give rise to Commission price regulation in accordance with SDCL 49-31-4 and 49-31-1.4. The particular statutes and rules involved include SDCL 1-26-15, ARSD 20:10:01:34 and 20:10:01:35, and SDCL Chapter 49-31, particularly 49-31-1.1 through 49-31-1.4, inclusive, 49-31-3, 49-31-3.2, 49-31-3.4, and 49-31-4.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All persons testifying will be subject to cross-examination. All parties have the right

to be present and to be represented by an attorney. These rights and other due process rights will be forfeited if not exercised at the hearing. If a party or its representative fails 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 the 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. 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 on the petition will be held at the time and place set forth above on the issue of whether the 511 service proposed by Petitioner is a noncompetitive service as defined by SDCL 49-31-1.1.

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 22nd day of August, 2002.

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>Dulaine Kalbo</i></u>
Date:	<u>8/22/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Robert K. Sahr
ROBERT K. SAHR, Commissioner