

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

|                                    |                    |
|------------------------------------|--------------------|
| IN THE MATTER OF THE FILING FOR )  | ORDER DISAPPROVING |
| APPROVAL OF TERMS AND CONDITIONS ) | AGREEMENT          |
| FOR INTERCONNECTION, UNBUNDLED )   |                    |
| NETWORK ELEMENTS, ANCILLARY )      | TC05-029           |
| SERVICES AND RESALE OF )           |                    |
| TELECOMMUNICATIONS SERVICES )      |                    |
| BETWEEN QWEST CORPORATION AND )    |                    |
| VYCERA COMMUNICATIONS, INC. )      |                    |

On February 25, 2005, the South Dakota Public Utilities Commission (Commission) received a filing from Qwest Corporation (Qwest) for approval of a negotiated agreement between Qwest and Vycera Communications, Inc. (Vycera) pursuant to 47 U.S.C. §§ 252(a)(1) and 252(e).

On March 3, 2005, 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 March 17, 2005, to do so. No comments were filed.

At its duly noticed May 24, 2005, meeting, the Commission considered whether to approve the agreement between Qwest and Vycera. Commission Staff recommended not approving the agreement as Vycera 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 agreement which is the subject of this docket.

Dated at Pierre, South Dakota, this 26<sup>th</sup> day of May, 2005.

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| <b>CERTIFICATE OF SERVICE</b>  |
| 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 Kalbs</i></u>  |
| Date: <u>5/26/05</u>   |
| (OFFICIAL SEAL)  |

BY ORDER OF THE COMMISSION:

*Gary Hanson*  
GARY HANSON, Chairman

*Robert K. Sahr*  
ROBERT K. SAHR, Commissioner *RS*

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Commissioner