

**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 NSW) TELECOM, INC.)	ORDER DISAPPROVING AGREEMENT TC09-041
---	---

On May 13, 2009, the South Dakota Public Utilities Commission (Commission) received a filing from Qwest Corporation (Qwest) for approval of a negotiated agreement between Qwest and NSW Telecom, Inc. (NSW Telecom) pursuant to 47 U.S.C. §§ 252(a)(1) and 252(e).

On May 28, 2009, 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 June 2, 2009, to do so. No comments were filed.

At its duly noticed June 23, 2009, meeting, the Commission considered whether to approve the agreement between Qwest and NSW Telecom. Commission Staff recommended not approving the agreement as NSW Telecom did not have a certificate of authority to provide local service in South Dakota. The Commission voted to disapprove the agreement (Commissioner Johnson, dissenting).

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 30th day of June, 2009.

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, electronically.
By: <u><i>Aldine Kolbo</i></u>
Date: <u>7/1/09</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

DUSTIN M. JOHNSON, Chairman
dissenting

Steve Kolbeck
STEVE KOLBECK, Commissioner

Gary Hanson
GARY HANSON, Commissioner