

Consumer Complaint Orders - Issued 1999

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

IN THE MATTER OF THE COMPLAINT FILED BY NANCY)	ORDER FOR
MANNING AND ELIZABETH FREDERICK, RAPID CITY,)	AND NOTICE
SOUTH DAKOTA, AGAINST U S WEST)	OF HEARING
COMMUNICATIONS, INC. AND MCLEODUSA)	
TELECOMMUNICATIONS SERVICES, INC. REGARDING)	CT99-005
THE INABILITY TO PROVIDE SERVICE)	
)	

On May 27, 1999, the Public Utilities Commission (Commission) received a complaint from Nancy Manning and Elizabeth Frederick, Rapid City, South Dakota (Complainants), against U S WEST Communications, Inc. (U S WEST) and McLeodUSA Telecommunications Services, Inc. (McLeod) regarding the inability to provide service. Complainants outlined the problems they are having establishing new service. Complainants are asking for immediate phone service, reimbursement for expenses, reimbursement for loss of business, an independent contractor allowed to enter U S WEST, and an explanation.

On June 1, 1999, at an ad hoc meeting, Complainants, a representative from U S WEST and a representative from McLeod appeared before the Commission. Unresolved factual issues arose following statements from each party. Pursuant to ARSD 20:10:01:09, the Commission found there is probable cause of an unlawful or unreasonable act, rate, practice or omission and the complaint was forwarded to U S WEST and McLeod, and U S WEST and McLeod had within twenty (20) days of service of the order to either satisfy the complaint or answer it in writing.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-2, 49-13, and 49-31, specifically 49-13-1 through 49-13-14.1, inclusive, 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, and 49-31-38.3, and ARSD 20:10:01:08.01 and 20:10:01:09. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing shall be held on August 26, 1999, beginning at 1:00 o'clock P.M. (CDT), in Room 412, State Capitol Building, Pierre, South Dakota. All persons so testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether McLeodUSA Telecommunications Services, Inc., and/or U S WEST Communications, Inc. committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

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 shall determine whether McLeod and/or U S WEST committed an unlawful or unreasonable act, rate, practice, or omission and, if so, order any appropriate relief. 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 issue of whether McLeod and/or U S WEST committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate.

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 5th day of August, 1999.

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: _____

Date: _____

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner

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