

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

IN THE MATTER OF THE APPLICATION OF)	FINDINGS OF FACT,
PAM COMMUNICATIONS TO OFFER)	CONCLUSIONS OF LAW,
NEGOTIATED RATES)	ORDER AND NOTICE OF
)	ENTRY OF ORDER
)	TC96-205

On December 19, 1996, the Public Utilities Commission (Commission) received a filing from PAM Communications to offer negotiated rates. PAM Oil, Inc. d.b.a PAM Communications (PAM) requested that the Commission waive its tariff filing requirements for competitive local telecommunications service providers. On December 26, 1996, the Commission electronically transmitted notice of the filing and the intervention deadline of January 10, 1997, to interested individuals and entities.

At its duly noticed meeting of January 14, 1997, the Commission granted intervention to AT&T Communications of the Midwest, Inc. (AT&T) and MCI Telecommunications Corporation (MCI). A hearing was held as scheduled on February 13, 1997.

The Commission having examined the evidence of record and being fully informed in the matter now makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

I

ARSD 20:10:24:02 permits the Public Utilities Commission (Commission) to grant a waiver to omit a specific item of information to be provided by a telecommunications company when it makes an application for a certificate of authority.

II

On December 17, 1996, the Commission, in docket TC96-175, issued to PAM Communications (PAM) a Certificate of Authority to provide telecommunications services in South Dakota. At that time the Commission granted PAM a waiver of ARSD 20:10:24:02(8) as the tariff was dependent on the outcome of negotiations with U S WEST Communications (U S WEST). Exhibit 3, page 3.

III

On December 19, 1996, the Commission received a filing from PAM to offer negotiated rates. PAM requested that the Commission waive its tariff filing requirements for competitive local telecommunications service providers. (Exhibit 1)

IV

On December 26, 1996, the Commission electronically transmitted notice of the filing and the intervention deadline of January 10, 1997, to interested individuals and entities.

V

On January 10, 1997, the Commission received a Petition to Intervene from AT&T Communications of the Midwest, Inc. (AT&T) and on January 13, 1997, the Commission received a Petition to Intervene from MCI Telecommunications Corporation (MCI).

VI

The Commission granted intervention to AT&T and MCI at a duly noticed meeting of January 14, 1997.

VII

A hearing was held in this matter on February 13, 1997, at the State Motel Conference Room, Pierre, SD.

VIII

Scott Scofield, chief operating officer of PAM, testified that PAM intends to offer local telecommunications services as a reseller and will offer long distance services as an agent for a long distance company. Transcript of Hearing, page 9.

IX

Mr. Scofield testified that in his opinion resellers of local telecommunications services need to only file informational tariffs which do not include rates. Transcript of Hearing, pages 7-8.

X

Mr. Scofield testified that informational tariffs would include the following information: description of the services PAM intends to offer, deposit policy, collection policy, disconnect policy, exchange areas that PAM intends to provide service within, limitation of liability policy, payment and billing process, and excess construction procedure. Transcript of Hearing, pages 12-13.

XI

Mr. Scofield testified that it is in the public interest to grant a waiver to PAM to offer negotiated rates as PAM would bring competition to the marketplace which in turn

improves services, the quality of response to the customer goes up, and prices traditionally drop. Transcript of Hearing, pages 5-6.

XII

PAM is only seeking a waiver in its sales to business customers. Transcript of Hearing, page 6.

XIII

PAM did not object to the Commission Staff's recommendation for the submission of tariffs and rates for residential telecommunications services. Transcript of Hearing, pages 9-10.

XIV

Harlan Best, deputy director of fixed utilities, recommended that the Commission require competitive local exchange providers to file an informational tariff which would include terms and conditions without local rates for service provided to commercial accounts. Residential rates, when offered, should be filed with the Commission. Transcript of Hearing, page 17; Exhibit 3, page 6.

XV

Mr. Best testified that, in his opinion, commercial accounts for resellers of local service should be allowed to offer negotiated rates as these businesses deal with contracts in the normal course of operations and are familiar with the give and take required to get the best deal. In addition, the Commission has U S WEST's local rates (the ceiling price) on file and the negotiated agreement shows the discount (the floor price) which is also on file with the Commission. Exhibit 3, page 6.

XVI

PAM's request for waiver of its tariff filing requirements for competitive local telecommunications service providers is in the public interest.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31.

II

This is a contested case under SDCL Chapter 1-26.

III

PAM's request for a continuation of the waiver of its tariff filing requirement pursuant to ARSD 20:10:24:02(8) for competitive local business telecommunications services is in the public interest.

Based on the foregoing Findings of Fact and Conclusions of Law, it is therefore

ORDERED that PAM's request for waiver of its tariff filing requirements pursuant to ARSD 20:10:24:02(8) for competitive local business telecommunications services is hereby granted; it is further

ORDERED that the continuation of this waiver is subject to future Commission rules regarding the provisioning of competitive local exchange services; and it is further

ORDERED that the residential rates, when offered, should be filed with the Commission; it is further

ORDERED that this docket be closed.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 5th day of March, 1997. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 5th day of March, 1997.

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>Alaine Kalbs</u>
Date:	<u>3/6/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner