

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

IN THE MATTER OF THE ESTABLISHMENT OF SWITCHED ACCESS RATES FOR U S WEST COMMUNICATIONS, INC.)))	<u>AMENDED</u> PREHEARING ORDER ON REOPENING RECORD TC96-107
--	-------------	---

The Circuit Court, the Honorable Steven L. Zinter presiding, reversed and remanded this matter to the Public Utilities Commission (Commission) on May 29, 1997, in accordance with the Court's oral bench decision; the Commission received a transcript of that oral bench decision on June 2, 1997, and the Notice of Entry of Order of Remand dated May 31, 1997, was received by the Commission on June 9, 1997. The Court has reversed the Commission's granting of the motion of AT&T Communications of the Midwest, Inc. (AT&T) to dismiss the action. The Court, upon remanding this matter, has stated that it is restored to a status of being an open docket; the adopted December 9, 1996, Motion of the Commission to reopen the record and take additional evidence on the five factors enumerated in the Motion is yet to be addressed. It will be noted for the record that Commissioner Pam Nelson will be participating in this docket on remand. The Commission having considered the directions of the Court hereby enters the following Prehearing Order.

1. The Commission rejects the analyses of staff witnesses Rislov, Best and Knadle which was presented at the hearing in this matter on October 9 and 10, 1996, and in their prefiled testimony. These analyses are rejected because the responses to data requests upon which the analyses were based were not obtained under oath. Further, all figures supplied to staff by U S WEST Communications, Inc. (U S WEST) or which were used as inputs into U S WEST's cost study were not independently verified by staff as to their accuracy or validity for use as inputs to the cost study. As such these witnesses' analyses, upon reopening the record, shall be given no evidentiary weight. Staff shall submit a new analysis of this case, subject to the directives of this Order.

2. In light of the foregoing deficiencies in staff's analyses, the Commission is Ordering staff to conduct an on-site investigation which shall consist of a review in this docket to verify numbers used by U S WEST as inputs to its cost study and to determine the accuracy of those numbers used by U S WEST and the validity of their use in the cost study and to prepare a report to be filed with staff's prefiled testimony with this Commission for consideration at the reopened hearing in this matter. Staff shall, at a minimum, provide the following information to the Commission as a result of this investigation:

- a. a review of inputs which staff deems significant and which are required by Commission rules for cost studies, which were used by U S WEST in its cost study. The purpose of such review shall be to determine the accuracy of the inputs for use under the Commission's rules on cost studies; and
- b. provide evidence that this review consists of no less than reviewing a sampling of U S WEST's records which would be compiled by U S WEST in the formulation of its inputs to its cost study; and
- c. an analysis of differences, if any, which may be found in the data used by U S WEST in the formulation of its inputs actually used and what staff deems appropriate under the Commission's rules for cost studies; and
- d. reviews performed on U S WEST's inputs shall not be exclusively based upon secondary sources such as ARMIS reports; and
- e. all responses to staff's data requests shall be under oath and filed with the Commission for inclusion in the docket; and
- f. an analysis of how consumers' interests are affected by any proposed switched access increase.

At the Prehearing Conference, staff has requested the assistance of accountants or other consultants in performing this work. The Commission acknowledges this request and will consider approving contracts for such assistance. Staff shall present such contracts to the Commission for consideration at a public meeting of the Commission, the scheduling of which shall be done through the Executive Director for the Commission.

Parties have requested the right to participate in any on-site reviews performed by or on behalf of Commission Staff. The Commission does not have a position on this request and this is not to be construed as an order or ruling by the Commission as such activity may involve confidentiality claims upon which the Commission may later be called upon to rule. The parties may wish to coordinate their efforts with Commission Staff and U S WEST.

3. The Commission gives U S WEST the opportunity to present additional evidence with regard to the cost study at the reopened hearing in this matter. Any additional numerical evidence submitted by U S WEST shall, at a minimum, include foundational evidence from its employees or consultants who actually compile or otherwise assemble the information contained in the cost study as opposed to those employees who act only in a supervisory capacity. All such evidence shall further be verified by U S WEST as to its accuracy and validity for use in the cost study.

4. Intervenors, consistent with the Commission's adopted Motion of December 9, 1996, shall be given the opportunity to present additional evidence relative to two aspects of this docket: (1) the cost study filed by U S WEST including the application of represeted depreciation in it and any audits or reviews done by intervenors; and (2) the public interest as it is affected by the access charge proposed by U S WEST including such aspects as quantification of the effect of the access charge and the effect of rate shock.

5. In conducting the hearing in this reopened record, the Commission will sparingly permit the

use of late filed exhibits under its rule ARSD 20:10:01:24.03. Parties are expected to come to the hearing prepared to present their case. The Commission will consider excluding from admission evidence which is irrelevant, incompetent, immaterial or unduly repetitious.

6. The schedule for deadlines in this matter shall be as follows:

Simultaneous Prefiled testimony: August 27, 1997

Simultaneous Prefiled Re al testimony: September 3, 1997

Hearing: September 10 through 12, 1997, Room LCR1, State Capitol Building, Pierre, South Dakota, commencing at 9:00 a.m., on September 10,1997.

Parties wishing to file any Motions for the hearing shall do so at least five days prior to the hearing. Motions and supporting authority, combined, shall not exceed ten pages in length.

Because of the Court's directive that this matter be handled forthwith, parties are encouraged to file prehearing briefs instead of post hearing briefs to assist the Commission in ruling in a timely manner.

Dated at Pierre, South Dakota, this 8th day of September, 1997.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>	<p>BY ORDER OF THE COMMISSION:</p> <p>Commissioners Burg, Nelson and Schoenfelder</p> <p>_____</p> <p>WILLIAM BULLARD, JR., Executive Director</p>
---	--

[[CC99orders/includepgs/bottomlinks_insidepg.htm](#)]