



38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-60 through 49-31-68, inclusive, and ARSD 20:10:01:07.01 through 20:10:01:28, inclusive. After listening to the arguments of the parties the Commission unanimously voted to grant U S WEST's Motion to Amend. The Commission took the Motion to Dismiss Cross- Claim under advisement.

On March 9, 1999, FirsTel filed a Motion to Supplement Argument. On March 10, 1999, U S WEST filed its Opposition to Motion of FirsTel to Supplement Argument. On March 11, 1999, FirsTel filed its supplemental memorandum. A March 11, 1999, meeting, the Commission again considered the matter. The Commission voted 2-1 to deny FirsTel's Motion to Supplement Argument (Chairman Burg, dissenting). The Commission then unanimously voted to grant U S WEST's Motion to Dismiss Cross-Claim of FirsTel against U S WEST. The Commission noted that FirsTel's Cross- Claim specifically states that it is asking for indemnification pursuant to the Agreement for Service Resale Between FirsTel, Inc. and U S WEST Communications, Inc. (Resale Agreement). The Commission found that since this is a claim for a specific remedy contained in the Resale Agreement, paragraph VII(Q) applies which provides that a claim between the parties is to be resolved by arbitration conducted by a single arbitrator under the American Arbitration Association rules.

It is therefore

ORDERED, that the Motion to Amend U S WEST's Answer to Cross-Claim of FirsTel is granted; and it is

FURTHER ORDERED, that FirsTel's Motion to Supplement Argument is denied; and it is

FURTHER ORDERED, that U S WEST's Motion to Dismiss Cross-Claim of FirsTel against U S WEST is granted.

Dated at Pierre, South Dakota, this 18th day of March, 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  
 (dissenting on denial of Motion to  
 Supplement Argument)

\_\_\_\_\_  
 PAM NELSON, Commissioner

\_\_\_\_\_  
 LASKA SCHOENFELDER,  
 Commissioner

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