

Consumer Complaint Orders - Issued 1999

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

IN THE MATTER OF THE COMPLAINT FILED BY)	SECOND ORDER
DONALD COOK, HURON, SOUTH DAKOTA, AGAINST)	FOR AND
BUDGET CALL LONG DISTANCE, INC. AND NOR)	NOTICE OF
COMMUNICATIONS, INC. REGARDING UNAUTHORIZED)	HEARING
SWITCHING OF SERVICES)	
)	CT99-041

On September 28, 1999, the Public Utilities Commission (Commission) received a complaint filed by Donald Cook, Huron, South Dakota (Complainant), against Budget Call Long Distance, Inc. (Budget), regarding alleged unauthorized charges on his long distance bill. Complainant requests that the unauthorized charges be removed from his bill and that he be awarded \$1000 as provided by law.

Pursuant to ARSD 20:10:01:08.01 and 20:10:01:09, if a complaint cannot be settled without formal action, the Commission shall determine if the complaint shows probable cause of an unlawful or unreasonable act, rate, practice or omission to go forward with the complaint.

On October 7, 1999, at a duly noticed meeting, Mr. Cook explained his complaint against Budget. Budget's representatives explained the company's position in this matter. The Commission voted unanimously to find probable cause.

By order dated November 2, 1999, a hearing was scheduled for December 9, 1999, in Redfield, South Dakota. Budget filed its answer on November 8, 1999, requesting dismissal of the complaint and a continuance of this matter. On November 12, 1999, an Order Cancelling Hearing was filed.

On December 1, 1999, the Commission received a letter from Mr. Cook requesting that his complaint be amended to include NOR Communications. A regularly scheduled December 14, 1999, meeting the Commission voted to grant the Complainant's request to amend the complaint and add NOR Communications as a respondent.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-89 through 49-31-97, inclusive, and ARSD Chapters 20:10:01 and 20:10:34.

A hearing shall be held on January 19, 2000, beginning at 1:30 o'clock P.M., in Room 468, in the State Capitol, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issues at the hearing are: (1) whether Budget committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate; and (2) whether NOR Communications 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: (1) whether Budget committed an unlawful or unreasonable act, rate, practice, or

omission and, if so, order any appropriate relief; and (2) whether NOR Communications 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 issues of: (1) whether Budget committed an unlawful or unreasonable act, rate, practice or omission and, if so, what relief would be appropriate; and (2) whether NOR Communications 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 29th day of December, 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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