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[Signature]
CLERK

Honorable Charles B. Kornmann
United States District Judge
United States District Court
U. S. Courthouse
102 4th Avenue S.E., No. 408
Aberdeen, SD 57401

RE: Verizon Wireless (VAW) LLC vs. Bob Sahr, et al
Civ. No. 04-3014

Dear Judge Kornmann:

This letter is written in response to your letter dated July 31, 2007, in which you requested any rules that have been promulgated by the Public Utilities Commission to implement the Act. Attached is a copy of the Commission's rules that it developed in response to the passage of the federal Act. ARSD Chapter 20:10:32. The rules that are specific to interconnection agreements and requirements are contained in sections 20:10:32:20 through 20:10:32:41.

If you would like any additional information, please let us know.

Sincerely,

Rolayne Alts Wiest

ROLAYNE ALTS WIEST
SDPUC Attorney

Enc.

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CHAPTER 20:10:32

LOCAL EXCHANGE SERVICE COMPETITION

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20:10:32:01. Definitions. Terms used in this chapter that are defined in SDCL 49-31-1 have the same meaning. In addition, the following terms used in this chapter mean:

(1) "Alternative local service provider," a telecommunications company which seeks to provide or is providing local exchange services in competition with an incumbent local exchange carrier;

(2) "Incumbent local exchange carrier," a local service provider falling within the definition prescribed under 47 U.S.C. § 251(h) (September 10, 1998);

(3) "Local service provider," a telecommunications company which seeks to provide or is providing local exchange services in South Dakota pursuant to a certificate of authority granted by the commission, including both incumbent local exchange carriers and alternative local service providers;

(4) "Resale," the practice of purchasing local exchange services from another local service provider and reselling the services on a retail basis to end user customers;

(5) "Reseller," a local service provider that provides local exchange services to end users through resale without using its own network facilities or the unbundled network elements of a local exchange carrier.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-69, 49-31-76.

20:10:32:02. Certificate of authority required to provide local exchange service. A certificate of authority for local exchange service obtained pursuant to this chapter applies only to the service area designated in the application for certification, subject to any further limitations that may be imposed by the commission pursuant to statute or this chapter. A telecommunications company may not provide local exchange service in an area for which it does not have a valid certificate of authority without first obtaining an amended certificate of authority from the commission applicable to the area into which the company proposes to expand. A certificate of authority to provide local exchange services may include authority to provide such services through the resale of a local exchange carrier's services, the purchase of a local exchange carrier's network elements, the use of the applicant's own facilities, or a combination of these methods.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-69, 49-31-76.

20:10:32:03. Certificate of authority for local exchange service -- Application requirements. A telecommunications company required to apply for a certificate of authority for local exchange services from the commission shall submit a written application and provide the following information unless the commission grants a waiver to omit a specific item of information:

(1) The applicant's name, address, telephone number, facsimile number, E-mail address, and whether the applicant is a sole proprietorship, partnership, corporation, limited liability corporation, or limited liability partnership;

(2) If a sole proprietorship, the full name and business address of its owner; if a partnership, the full name and business address of each partner; if a corporation, a listing of the full name and business address of each corporate officer and director; if a limited liability corporation, the full name and business address of each member; or, if a limited liability partnership, the full name and business address of each partner;

(3) The name under which applicant will provide local exchange services if different than in subdivision (1) of this section;

(4) If a corporation:

(a) The location of its principal office, if any, in this state and the name and address of its current registered agent;

(b) A list of shareholders owning twenty percent or more of the interest in the business;

(c) The state in which the applicant is incorporated, the date of incorporation, and a copy of its certificate of incorporation; and

(d) If it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the secretary of state;

(5) A description of the applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services;

(6) Names and addresses of applicant's affiliates, subsidiaries, and parent organizations, if any;

(7) A list and specific description of the types of services the applicant seeks to offer and the means by which the services will be provided including:

(a) Information indicating the classes of customers the applicant intends to serve;

(b) Information indicating the extent to and time-frame by which applicant will provide service through the use of its own facilities, the purchase of unbundled network elements, or resale;

(c) A description of all facilities that the applicant will utilize to furnish the proposed local exchange services, including any facilities of underlying carriers; and

(d) Information identifying the types of services it seeks authority to provide by reference to the general nature of the service;

(8) A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant;

(9) Information regarding the technical competence of the applicant to provide its proposed local exchange services including:

(a) A description of the education and experience of the applicant's management personnel who will oversee the proposed local exchange services; and

(b) Information regarding policies, personnel, or arrangements made by the applicant which demonstrates the applicant's ability to respond to customer complaints and inquiries promptly and to perform facility and equipment maintenance necessary to ensure compliance with any commission quality of service requirements;

(10) Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services;

(11) Financial information including:

(a) For the most recent 12 month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements; and

(b) If a public corporation, the applicant's latest annual report and report to stockholders;

(12) Information detailing the following matters associated with interconnection to provide proposed local exchange services:

(a) The identity of all local exchange carriers with which the applicant plans to interconnect;

(b) The likely timing of initiation of interconnection service and a statement as to when negotiations for interconnection started or when negotiations are likely to start; and

(c) A copy of any request for interconnection made by the applicant to any local exchange carrier;

(13) A tariff or price list indicating the prices, terms, and conditions of each contemplated local service offering;

(14) Cost support for rates shown in the company's tariff or price list for rate or price regulated noncompetitive or emerging competitive services;

(15) A description of how the applicant intends to market its local exchange services, its target market, whether the applicant engages in multilevel marketing, and copies of any company brochures that will be used to assist in sale of the services;

(16) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20:10:32:15 and applicant's plans for meeting the service obligations;

(17) A list of the states in which the applicant is registered or certified to provide

telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

(18) The names, addresses, telephone numbers, E-mail addresses, and facsimile numbers of the applicant's representatives to whom all inquiries must be made regarding customer complaints and other regulatory matters;

(19) Information concerning how the applicant plans to bill and collect charges from customers who subscribe to its proposed local exchange services;

(20) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of local service customers by the applicant, its employees, or agents;

(21) The number and nature of complaints filed against the applicant with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered;

(22) A written request for waiver of those rules believed to be inapplicable;

(23) Federal tax identification number; and

(24) Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the local exchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws.

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

Source: 25 SDR 89, effective December 27, 1998; 26 SDR 110, effective March 7, 2000.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-69, 49-31-76.

20:10:32:04. Notice to other local exchange carriers in proposed service area -- Intervener status. The applicant shall give notice of its application to each telecommunications company that already holds a certificate of authority to provide local exchange service in the geographic area where the applicant seeks to provide local exchange service. In addition, the commission shall, upon request, grant each of the already certified telecommunications companies intervener status in any commission

proceeding held on the application. The request for intervention submitted by any such company need not meet the requirements for petitions to intervene set forth in chapter 20:10:01.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-70, 49-31-76.

20:10:32:05. Opportunity for hearing -- Burden of proof. The applicant and other parties to the application may request a hearing on the application for a certificate of authority to provide local exchange services. In the application proceeding, the telecommunications company filing the application shall have the burden of proving that it has sufficient technical, financial, and managerial capabilities to provide the local exchange services applied for consistent with the requirements of this chapter and other applicable laws, rules, and commission orders.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:06. Rejection of incomplete application -- Decision criteria for granting a certificate of authority. A certificate of authority to provide local exchange service may not be granted unless the applicant establishes sufficient technical, financial, and managerial ability to provide the local exchange services described in its application consistent with the requirements of this chapter and other applicable laws, rules, and commission orders. If an application is incomplete, inaccurate, false, or misleading, the commission shall reject the application. In determining if an applicant has sufficient technical, financial, and managerial capabilities and whether to grant a certificate of authority for local exchange services the commission shall consider:

(1) If the applicant has an actual intent to provide local exchange services in South Dakota;

(2) Prior experience of the applicant or the applicant's principals or employees in providing telecommunications services or related services in South Dakota or other jurisdictions, including the extent to which that experience relates to and is comparable to service plans outlined in the filed application;

(3) The applicant's personnel, staffing, equipment, and procedures, including the extent to which these are adequate to ensure compliance with the commission's rules and orders relating to service obligations, service quality, customer service, and other relevant areas;

- (4) The nature and location of any proposed or existing facilities which the applicant intends to use in providing local exchange services;
- (5) If the applicant intends to resell local exchange services or enter into facility arrangements with other telecommunications carriers, when the necessary arrangements will be in place;
- (6) The applicant's marketing plans and its plan and resources for receiving and responding to customer inquiries and complaints;
- (7) If the applicant has sufficient financial resources to support the provisioning of local exchange service in a manner that ensures the continued quality of telecommunications services and safeguards consumer and public interests;
- (8) If the applicant, in providing its local exchange services, will be able to provide all customers with access to interexchange services, operator services, directory assistance, directory listings, and emergency services such as 911 and enhanced 911;
- (9) If the applicant is seeking authority to provide local exchange services in the service area of a rural telephone company, if the applicant's plans for meeting the additional service obligations imposed in rural telephone company service areas pursuant to § 20:10:32:15 are adequate and demonstrate that the applicant will in fact meet such obligations;
- (10) The extent to which the applicant, applicant's affiliates, or applicant's principals have been subject to any civil, criminal, or administrative action in connection with the provisioning of telecommunications services; and
- (11) Any other factors relevant to determining the applicant's technical, financial, and managerial capability to provide the services described in the application consistent with the requirements of this chapter and other applicable laws, rules, and commission orders.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:07. Certification subject to commission imposed terms and conditions. In addition to the requirements imposed by this chapter on providers of local exchange services, the commission, in granting a certificate of authority to provide local exchange services, may impose additional terms and conditions, on a competitively neutral basis, that it finds necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of service, and safeguard the rights of consumers. The preservation and advancement of universal service shall be a primary concern.

Source: 25 SDR 89, effective December 27, 1998; SL 1999, ch 232, § 1, effective July 1, 1999.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:08. Sale, assignment, lease, or transfer of certificate of authority. If requesting a sale, assignment, lease, or transfer of a certificate of authority to provide local exchange services, the company shall provide the information required by § 20:10:32:03. In ruling on any proposed sale, assignment, lease, or transfer of a certificate of authority to provide local exchange services, the commission shall consider the criteria set forth in § 20:10:32:06.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:09. Suspension or revocation of certificate of authority. Failure of any provider of local exchange service to comply with applicable requirements set forth in this chapter, other terms and conditions imposed on its certification by the commission, or other applicable rules or laws may result in the suspension or revocation of the provider's certificate of authority to provide local exchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-75, 49-31-76.

20:10:32:10. Service obligations of all providers. A telecommunications company providing local exchange services shall, at minimum, make the following available to each customer:

- (1) Access to the public switched network;
- (2) Access to emergency services such as 911 or enhanced 911;
- (3) Access to a local directory and directory assistance;
- (4) Access to operator services;

(5) Telecommunications relay service capability or access necessary to comply with state and federal regulations;

(6) Nonpublished service upon written or verbal request of the customer; and

(7) Access to interexchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-75, 49-31-76.

20:10:32:11. Local calling scope for alternative providers. A telecommunications company that is granted authority to offer competitive local exchange services in an area where the incumbent local exchange carrier provides a certain local calling area may provide no less than the same local calling area to its customers. An alternative provider of local exchange services may, subject to commission approval, offer a different local calling area upon showing that it would not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:12. Annual reporting requirements. After a telecommunications company has received a certificate of authority to provide local exchange services from the commission, the company shall submit to the commission by June 1 of each year thereafter the following information:

(1) A report of its annual revenues from the preceding year resulting from operations in South Dakota;

(2) A report identifying specifically the areas within its service area in the state where the company is operational and actually providing local exchange services. The report must separately identify areas being served primarily through resale and areas served by facilities of the companies; and

(3) The number of access lines being served, segregated between business and residential local exchange customers.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:13. Discontinuance of service. A provider of local exchange service may not

discontinue service or abandon all or a portion of its service area unless another provider of local exchange services certified for that area is able to provide basic local service to the abandoning provider's customers immediately upon the date such provider discontinues service. No later than 60 days prior to discontinuing its service or abandoning all or a portion of its service area, the provider proposing such action shall file a notice with the commission containing the following information:

- (1) The reasons for the proposed discontinuance of service or abandonment of service area;
- (2) The number of customers affected and written verification that all affected customers have been given at least 30 days notice of the proposed discontinuance or abandonment;
- (3) The arrangements made for another local service provider to serve the affected customers;
- (4) Where applicable, a plan for the refund of any deposits collected from affected customers; and
- (5) The arrangements made for satisfying outstanding debt to local exchange carriers or other carriers prior to or after the proposed discontinuance or abandonment.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:14. Area under threat of discontinuance of service. In the event the commission determines that a given area of the state is likely to lose local exchange service, the commission shall conduct a hearing to determine what further steps should be taken to insure continuance of local exchange service to the affected area.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:15. Rural service area -- Additional service obligations. If a telecommunications company is seeking authority to provide local exchange service in the service area of a rural telephone company, the company shall satisfy the service requirements imposed on eligible telecommunications carriers pursuant to 47 U.S.C. § 214(e)(1) (September 10, 1998) and applicable federal regulations. After notice and opportunity for hearing, these service requirements shall be imposed on the alternative local service provider throughout a geographic area as determined by the commission, unless a waiver is granted pursuant to § 20:10:32:18. The local service provider seeking authority in the rural service area shall be required to meet the eligible telecommunications carrier service requirements within 24 months after the later of:

- (1) The date of the commission's order granting the provider a certificate of authority to provide

local exchange services; or

(2) The date of the commission order approving any agreements for resale, interconnection, or network elements that are necessary for the provider to provide its local exchange services. The 24 month time requirement may be extended by the commission if good cause is shown.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-73, 49-31-76.

20:10:32:16. Good faith offering requirement. Any service required to be provided by the alternative provider of local exchange services pursuant to § 20:10:32:15 shall be provided at prices and on terms which reflect a good faith offering of the services throughout the rural telephone company's service area, or a different geographic area as determined by the commission. This includes an obligation to advertise the availability of local exchange services and prices to potential customers throughout the relevant area using media of general distribution in accord with any specific advertising requirements imposed by the commission. In addition, the alternative provider shall provide the required services in a manner that ensures continued reliable access to quality local exchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-73, 49-31-76.

20:10:32:17. Report of progress toward meeting service obligations. Any local service provider required to meet eligible telecommunications service requirements pursuant to § 20:10:32:15 shall, six months prior to the deadline identified in that section, report to the commission regarding the extent to which it is offering its local exchange services in the relevant rural telephone company areas. The report shall include the following:

(1) Information indicating which portions of the relevant rural telephone company areas, if any, remain non-operational and delineate the local service provider's current plans for meeting the eligible telecommunications carrier service requirements throughout such areas;

(2) Information describing how the local service provider has advertised the availability of the services it is required to offer; and

(3) The current prices, terms, and conditions under which the local service provider is offering the required services, if different from the prices, terms and conditions provided along with its application for a certificate of authority to provide local exchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-73, 49-31-76.

20:10:32:18. Waiver of eligible telecommunications carrier service requirements. A telecommunications company seeking authority to provide local exchange services in the service area of a rural telephone company may petition the commission for a waiver from having to satisfy the eligible telecommunications service requirements as set forth in 47 U.S.C. § 214(e)(1) (September 10, 1998) and applicable federal regulations. The commission may grant the waiver if, after notice and opportunity for hearing, it is determined by the commission that granting the waiver does not adversely impact universal service, that quality of service shall continue, and that it is in the public interest. The telecommunications company requesting the waiver shall have the burden to prove by a preponderance of the evidence that granting the waiver is consistent with these standards.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-73, 49-31-76.

20:10:32:19. Failure to meet service obligations -- Grounds for revocation of certificate. The commission shall institute an inquiry into the failure of an alternative local service provider to meet eligible telecommunications carrier service requirements imposed pursuant to § 20:10:32:15. Unless the local service provider demonstrates to the satisfaction of the commission that its failure to make the required services available throughout the relevant area within the required time is the result of factors beyond the provider's control, the commission may revoke or suspend the provider's certificate of authority to provide local exchange services in the rural telephone company service area.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-73, 49-31-75, 49-31-76.

20:10:32:20. Request for negotiations. A telecommunications company requesting negotiations with an incumbent local exchange carrier pursuant to SDCL 49-31-81 shall notify the commission in writing of the request. The notice must identify the incumbent local exchange carrier and the date of the request.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:21. Submission of negotiated agreement for approval. An agreement for interconnection, network elements, and other telecommunications services negotiated pursuant to SDCL 49-31-81 must be submitted to the commission for approval. Each party to the negotiated agreement shall submit a complete copy of the agreement, including any attachments. Each party shall also submit a summarization of the main provisions of the agreement, including a statement of why the agreement does not discriminate against any non-party carrier and is consistent with the public interest, convenience, and necessity.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:22. Submission of written comments on negotiated agreement -- Submission of response. Any person may comment on a negotiated agreement submitted to the commission for approval by filing written comments with the commission and each party to the agreement no later than 20 days after the agreement is submitted to the commission. Any party to the agreement may file written responses to the comments within 20 days of service of the comments.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:23. Commission decision on negotiated agreement. The commission shall enter an order approving or rejecting the negotiated agreement within 90 days from the date the commission received the agreement.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:24. Request for mediation. A party may request mediation by the commission at any point during negotiations held pursuant to SDCL 49-31-81. Any party to the negotiation may file a joint request for mediation. A mediation request shall be in writing and shall include the following information:

- (1) The identity of each party to the negotiation, including the name, address, and telephone and

facsimile numbers of each party or the party's representative;

(2) The date on which the request for negotiation was made;

(3) A list of the issues to be mediated; and

(4) A proposed time schedule for the mediation, including a date by which the mediation must be terminated if an agreement is not reached.

The party requesting mediation shall serve the request on each party to the negotiation.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:25. Response to request for mediation. Any negotiating party that did not file a mediation request shall file with the commission a written response to the mediation request within ten days after being served the request. The response shall be served on each party to the negotiation. The response shall indicate whether the party is willing to participate in mediation.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:26. Mediation conducted by commission staff. If a party requests mediation, the commission staff members shall conduct the mediation. Any commission staff member acting as a mediator may not participate in any subsequent arbitration or approval process for the same agreement unless each party to the negotiations consents.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:27. Statement of issues. Within five business days after commission staff members are appointed as mediators, the parties shall provide to the mediators a statement of each party's position and relevant background information, including a list of all issues raised in the negotiations for which mediation is sought and a list of all issues the parties have resolved through negotiation.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:28. Confidentiality of mediation -- Settlement proposals. Each commission staff mediator shall keep confidential all information and records obtained in conducting the mediation. Only the parties to the negotiation may attend the mediation session unless each party consents to the presence of others. A commission staff mediator may not impose a settlement, but may offer proposals for settlement. After the mediation, each commission staff mediator and party shall return any information exchanged during the mediation to the owner of the information.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:29. Petition for arbitration -- Response to petition. Any party to negotiations requested pursuant to SDCL 49-31-81 may petition the commission to arbitrate any unresolved issues. The petition for arbitration must include the following:

- (1) The identity of each party to the negotiation, including the name, address, and telephone and facsimile numbers of each party or the party's representative;
- (2) The date of the initial request for negotiation;
- (3) A detailed list of all the unresolved issues the party or parties want the commission to arbitrate and the position of each party on those issues;
- (4) A list of the issues resolved by the parties or a copy of any proposed contract language that reflects the resolution of those issues;
- (5) A list of the unresolved issues, if any, that are not being submitted for arbitration;
- (6) Any proposed contract language reflecting each party's position; and
- (7) All documentation in the petitioner's possession or control that is relevant to the dispute.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:30. Response to petition for arbitration. A non-petitioning party may respond to the petition for arbitration and provide additional information within 25 days after the commission receives the petition.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:31. Arbitration conducted as a contested case -- Prehearing conference. A petition for arbitration shall be conducted as a contested case. Within 30 days of receiving a petition for arbitration, the commission may hold a prehearing conference.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:32. Commission decision on petition for arbitration. The commission shall issue a written decision that resolves each issue set forth in the petition for arbitration no later than nine months after the date on which the incumbent local exchange carrier received the request for negotiations.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:33. Commission approval of arbitrated agreement. An arbitrated agreement shall be submitted to the commission for approval within 60 days after the issuance of the commission's decision on the petition for arbitration, unless the commission otherwise orders or good cause is shown to extend the 60 day time period. The request for approval of an arbitrated agreement must set forth each party's position as to whether the agreement should be adopted or modified and contain a separate explanation by each party of whether the agreement meets each of the specific requirements of 47 U.S.C. §§ 251 and 252 (September 10, 1998).

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:34. Submission of written comments on arbitration agreement -- Submission of response. Any person may comment on the parties' request for approval of an arbitrated agreement by filing written comments with the commission and the parties to the agreement no later than five business days after the agreement is submitted to the commission. Each party to the agreement may file a written response to the comments within five business days of service of the comments.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:35. Commission decision on arbitrated agreement. The commission shall enter an order approving or rejecting the arbitrated agreement within 30 days after submission of the agreement by each party.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:36. Commission decision on agreement containing both arbitrated and negotiated provisions -- Submission of separate agreements. An agreement containing both arbitrated and negotiated provisions must clearly identify which sections were negotiated and which were arbitrated. An agreement containing both arbitrated and negotiated provisions shall be treated as arbitrated agreements with respect to the comment timelines and the 30 day approval deadline. Except for the timelines, the negotiated sections shall comply with the provisions relating to the approval of negotiated agreements. The arbitrated sections shall comply with the provisions relating to the approval of arbitrated agreements, including the timelines. In the alternative, the parties may submit negotiated and

arbitrated agreements separately for approval.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:37. Rural exemption from negotiation and interconnection requirements. Pursuant to 47 U.S.C. § 251(f)(1) (September 10, 1998), the obligations of an incumbent local exchange carrier, which include the duty to negotiate and provide interconnection, unbundled network elements, resale, notice of changes to its facilities or networks, and collocation, do not apply to a rural telephone company, unless the company has received a bona fide request for interconnection, services, or network elements and the commission determines that the rural telephone company shall fulfill the request. A provider of telecommunication services seeking interconnection, services, or network elements from a rural telephone company, subject to the exemption established by 47 U.S.C. § 251(f)(1) (September 10, 1998), shall provide the company with a bona fide request for such interconnection, services, or network elements. The bona fide request shall be in writing and shall detail the specifics of the request. The bona fide request shall, at minimum, include the requesting provider's best reasonable estimate of the following information concerning the interconnection, services, or network elements requested:

- (1) If interconnection is requested at the following points: line-side interconnection; trunk-side interconnection; tandem trunk interconnection; central office cross connects; out-of-band signaling transfer points, including call-related databases; points of access to unbundled network elements; or at interconnection facilities with specifications different from the incumbent local exchange carrier's facilities;
- (2) If any of the following types of unbundled elements are requested: local loops; subloops; network interface devices; local or tandem switching; interoffice transmission facilities; signaling networks and call-related databases, including service management systems; operations support systems; operator services; or directory assistance;
- (3) If any of the following types of collocation are requested: physical collocation, including transmission equipment or equipment used to terminate transmission equipment; virtual collocation; or meet point collocation;
- (4) If any of the following types of wholesale services are requested: residential; business; unbranded or rebranded call completion; unbranded or rebranded operator assistance; and unbranded or rebranded directory assistance;
- (5) If number portability is requested, and, if requested, the type of number portability;
- (6) Any requested access to 911 or enhanced 911, and any required dialing parity capability; and
- (7) A list of the requesting provider's contact person for the negotiation process.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-79.

20:10:32:38. Notice to commission of request. Upon making a request to a rural telephone company for interconnection, services, or network elements that are subject to the exemption established by 47 U.S.C. § 251(f)(1) (September 10, 1998), the person or entity making the request shall provide the commission notice of the request. Within ten days of receiving the request, the rural telephone company shall inform the requesting party and the commission if the rural telephone company is disputing whether the request is a bona fide request. If the rural telephone company disputes that the request is bona fide, the commission shall determine if the request is a bona fide request. If the rural telephone company does not dispute that the request is a bona fide request, the commission shall initiate a proceeding to determine if the rural telephone company shall comply with the request unless the rural telephone company receiving the request waives its exemption.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-79.

20:10:32:39. Petition for suspension or modification of interconnection requirements. A petition for suspension or modification of the requirements set forth in 47 U.S.C. §§ 251(b) and 251(c) (September 10, 1998) shall include:

- (1) The name, address, and telephone number of the local exchange carrier and its designated contact person;
- (2) The number of subscriber lines the local exchange carrier has nationwide, at the holding company level;
- (3) A description of the obligations the local exchange carrier seeks to suspend or modify, including specific references to the relevant provisions found in 47 U.S.C. §§ 251(b) or 251(c) (September 10, 1998);
- (4) A detailed description of the suspension or modification the local exchange carrier is seeking, including the proposed duration of each suspension or modification;
- (5) The proposed effective date of each suspension or modification sought by the local exchange carrier;
- (6) A statement supporting the petition indicating why the requested suspension or modification meets the standards for granting a suspension or modification as set forth in SDCL 49-31-80; and
- (7) A statement as to whether the local exchange carrier requests the commission to grant a temporary stay, as provided for in SDCL 49-31-80, of the obligations the carrier seeks to suspend or

modify.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-80.

20:10:32:40. Copy of petition to affected local service providers. A copy of the petition for suspension or modification of interconnection requirements shall be served upon each local service provider to which the requested suspension or modification may likely apply.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-80.

20:10:32:41. Timeline for reviewing petition. The commission shall take final action on any petition for suspension or modification made pursuant to 47 U.S.C. § 251(f)(2) (September 10, 1998) within 180 days after the petition is filed.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-80.

20:10:32:42. Designation of eligible telecommunications carriers. The commission on its own motion or upon request shall designate a telecommunications company which meets the requirements of 47 C.F.R § 54.201 (January 1, 2006) to serve as an eligible telecommunications carrier within each service area of the state. Upon request and consistent with the public interest, convenience, and necessity, the commission may, in an area served by a rural telephone company, and shall, in all other areas, designate more than one telecommunications company as an eligible telecommunications carrier for a service area designated by the commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201 (January 1, 2006). The commission may not, in an area served by a rural telephone company, designate more than one eligible telecommunications carrier absent a finding that the additional designation is in the public interest. In reviewing any proposed additional eligible telecommunications carrier designation within an area served by a rural telephone company, the commission may not find it to be in the public interest if the telecommunications company requesting such designation is not offering its services coextensive with the rural telephone company's service area.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:43. Eligible telecommunications carrier petitions. A telecommunications company that desires designation as an eligible telecommunications carrier shall file a petition for such designation with the commission. The petition for designation shall include the following information:

- (1) The name, address, and telephone number of the applicant and its designated contact person;
- (2) The proposed effective date of designation of eligible telecommunications carrier status;
- (3) Identification of the service area, including a detailed map, for which the designation is sought;
- (4) A statement supporting the petition which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R § 54.201 (January 1, 2006);
- (5) If the applicant is seeking additional time to complete network upgrades pursuant to C.F.R. § 54.101(c) (January 1, 2006), the applicant shall list the reasons why additional time is needed and the estimated length of time to complete the network upgrades; and
- (6) A statement specifying why the applicant's proposed designation is in the public interest.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:43.01. Demonstration of commitment to provide service. An applicant requesting designation as an eligible telecommunications carrier shall commit to providing service throughout its proposed designated service area to all customers making a reasonable request for service. Each applicant shall certify that it will:

(1) Provide service on a timely basis to requesting customers within the applicant's proposed designated service area where the applicant's network already passes the potential customer's premises; and

(2) If the potential customer is within the applicant's proposed designated service area but outside its existing network coverage, provide service within a reasonable period of time, if the service does not impose excessive or unreasonable cost, by:

(a) Modifying or replacing the requesting customer's equipment;

(b) Extending facilities, such as constructing or extending an access line, deploying a roof-mounted antenna, or installing other equipment;

(c) Adjusting the nearest cell tower;

(d) Adjusting network or customer facilities;

(e) Reselling services from another carrier's facilities to provide service; or

(f) Employing, leasing, or constructing additional network facilities such as an access line, a cell site, cell extender, repeater, or other similar equipment.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.02. Submission of two-year plan. An applicant requesting designation as an

eligible telecommunications carrier shall submit a two-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate the following on a wire center-by-wire center basis:

(1) How service quality, signal quality, coverage, or capacity will improve due to the receipt of high-cost support;

(2) The projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support;

(3) The specific geographic areas where the improvements will be made; and

(4) The estimated population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, the applicant must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.03. Demonstration of ability to remain functional in emergency situations. An applicant requesting designation as an eligible telecommunications carrier shall demonstrate its ability to remain functional in emergency situations, including a demonstration that it has a reasonable amount of back-up power to ensure functionality without an external power source, is able to reroute traffic around damaged transport facilities, and is capable of managing traffic spikes resulting from emergency situations.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.04. Demonstration of ability to satisfy consumer protection and service quality standards. An applicant requesting designation as an eligible telecommunications carrier shall demonstrate that it will satisfy applicable consumer protection and service quality standards.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.05. Offering of comparable local usage plan. An applicant requesting designation as an eligible telecommunications carrier shall demonstrate that it offers a local usage plan comparable to the one offered by the incumbent local exchange carrier in the service areas for which the applicant seeks designation.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.06. Provisioning of equal access. An applicant requesting designation as an eligible telecommunications carrier shall certify that it will be able to provide equal access to long distance carriers if no other eligible telecommunications carrier is providing equal access within the service area.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:43.07. Public interest standard. Prior to designating an eligible telecommunications carrier, the commission shall determine that such designation is in the public interest. The commission shall consider the benefits of increased consumer choice, the impact of multiple designations on the universal service fund, the unique advantages and disadvantages of the applicant's service offering, commitments made regarding the quality of the telephone service provided by the applicant, and the applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame. In addition, the commission shall consider whether the designation of the applicant will have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier. If an applicant seeks designation below the study area level of a rural telephone company, the commission shall also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider other factors, such as disaggregation of support pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:44. Existing eligible telecommunications carrier designations not affected. Eligible telecommunications carrier designations granted by the commission shall remain in effect unless later changed by the commission after notice and opportunity for a hearing.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:45. Determining the applicable service area. The commission decision on a request for designation as an eligible telecommunications carrier must include a determination of the applicable service area. In the case of a service area served by a rural telephone company, "service area" means the

company's "study area" unless and until the commission and the Federal Communications Commission establish a different definition of service area for the company. If the commission proposes to define the service area served by a rural telephone company to be other than the company's study area, the commission shall, consistent with 47 C.F.R. § 54.207 (January 1, 2006), petition the Federal Communications Commission for its approval prior to making any such change.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:46. Copy of petition to other eligible telecommunications carriers. A telecommunications company filing a petition for designation as an eligible telecommunications carrier shall, at the time of filing its petition with the commission, provide a copy of the petition to any other telecommunications company that is serving as an eligible telecommunications carrier within the relevant service area.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:47. Designation of eligible telecommunications carrier for unserved areas. If no telecommunications company will provide the services that are supported by universal service to an unserved community or any portion thereof that requests such service, the commission may determine which telecommunications company is best able to provide the service to the requesting unserved community or portion thereof and order the telecommunications company to provide service to the unserved community or portion thereof. Any telecommunications company ordered to provide service under this section shall meet the requirements of 47 C.F.R. § 54.201 (January 1, 2006) and shall be designated an eligible telecommunications carrier for that community or portion thereof.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:48. Relinquishment of eligible telecommunications carrier status. A telecommunications company may relinquish its eligible telecommunications carrier designation and accompanying universal service obligations as provided for below:

(1) A telecommunications company seeking to relinquish its eligible telecommunications carrier designation shall file a petition with the commission specifying the service area for which it seeks to relinquish its designation and the identity of any other eligible telecommunications carrier serving the service area. At the time of filing, a copy of the petition shall also be provided to each local service provider serving the area for which the petitioner seeks to relinquish its eligible telecommunications carrier designation;

(2) The commission may permit a telecommunications company to relinquish its eligible telecommunications carrier designation if at least one other eligible telecommunications carrier serves the area for which the relinquishment is sought;

(3) The petitioning telecommunications company shall continue to meet its eligible telecommunications carrier obligations for the entire area for which it seeks to relinquish those obligations until the date specified in the commission's order approving the relinquishment; and

(4) Prior to permitting a telecommunications company designated as an eligible telecommunications carrier to cease providing universal service in an area served by more than one eligible telecommunications carrier, the commission shall ensure that each customer served by the relinquishing carrier continues to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining eligible telecommunications carrier. The commission shall establish a time, not to exceed one year after the commission approves such relinquishment, within which such purchase or construction shall be completed.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:49. Revocation of eligible telecommunications carrier status. If the commission finds, after notice and opportunity for hearing, that any telecommunications company designated as an eligible telecommunications carrier does not qualify as an eligible telecommunications carrier under 47 C.F.R. § 54.201 (January 1, 2006) and is not entitled to federal universal service support, the commission shall revoke the telecommunications company's eligible telecommunications carrier designation.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:50. Monitoring of competitive local exchange services. The commission shall monitor the effectiveness of the regulatory requirements prescribed in this chapter to ensure that local service competition occurs in a manner that is consistent with preserving and advancing universal service, protecting the public safety and welfare, ensuring the continued quality of service, and safeguarding the rights of affected consumers.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:51. Use of universal service support. An eligible telecommunications carrier that receives federal universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:52. Annual certification requirements for designated eligible telecommunications carriers. Consistent with 47 C.F.R. §§ 54.313 and 54.314 (January 1, 2006), an eligible telecommunications carrier shall request the commission to file an annual certification with the Universal Service Administrative Company and the Federal Communications Commission stating that all federal high-cost support provided to the carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. An eligible telecommunications carrier shall file its request for annual certification with the commission on or before August 1, 2006, and by June first of each year thereafter. Failure of an eligible telecommunications carrier to file by the deadline may result in the commission's inability to provide certification to the Universal Service Administrative Company and the Federal Communications Commission by the following October first.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:53. Requirements for previously designated eligible telecommunications carriers and pending applications. A telecommunications company that has been designated as an eligible telecommunications carrier or has submitted its application for designation before the effective date of these rules must submit the information required by §§ 20:10:32:43.01 to 20:10:32:43.06, inclusive, by August 1, 2006.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:54. Certification requirements. In its annual certification filing, each eligible telecommunications carrier shall provide the following information, on a calendar year basis, to the commission:

(1) A progress report on its two-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, signal quality, coverage, or capacity, and an

explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

(2) Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5 (January 1, 2006), of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes if the outage affected at least ten percent of the end users served in a designated service area, or a 911 special facility, as defined in 47 C.F.R. § 4.5(e) (January 1, 2006). Information on the outage must include:

- (a) The date and time of onset of the outage;
- (b) A brief description of the outage and its resolution;
- (c) The particular services affected;
- (d) The geographic areas affected by the outage;
- (e) The steps taken to prevent a similar situation in the future; and
- (f) The number of customers affected;

(3) The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers, as set forth in § 20:10:32:43.01;

(4) The number of complaints the eligible telecommunications carrier's complaint department has received from consumers for the previous calendar year;

(5) Certification that it is complying with applicable service quality standards and consumer protection rules;

(6) Certification that the eligible telecommunications carrier is able to function in emergency situations as set forth in § 20:10:32:43.03;

(7) Certification that the eligible telecommunications carrier is offering a local usage plan

comparable to that offered by the incumbent local exchange carrier in the relevant service areas; and

(8) Certification that the eligible telecommunications carrier acknowledges that it will be able to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:55. Lifeline and link-up advertising requirements -- Annual report on outreach efforts. An eligible telecommunications carrier shall annually notify the availability of the federal lifeline and link-up assistance programs to each of its existing customers residing in the carrier's designated service area by written notification provided directly to the existing customers. A new customer residing in the carrier's designated service area shall receive written notification of lifeline and link-up assistance programs within 30 days after receiving telecommunications services. An eligible telecommunications carrier shall annually advertise the availability of lifeline and link-up services in media of general distribution throughout its service areas. An eligible telecommunications carrier shall submit a report on its outreach efforts designed to increase participation in the lifeline and link-up assistance programs to the commission. The report shall be filed by June first of each year and shall report on the eligible telecommunications carrier's outreach activities for the previous year.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:32:56. Petition for waiver -- Granting of waiver. Upon petition of a telecommunications company, the commission may grant a waiver, after notice and opportunity for hearing, of any certification requirement contained in §§ 20:10:32:52 to 20:10:32:54, inclusive. In determining whether to grant a waiver, the commission shall consider whether the requirement is unduly burdensome and unnecessary for the commission to certify that the carrier is using federal high cost support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

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