

In the Matter of . IN THE MATTER OF THE PETITION OF
 MIDCONTINENT COMMUNICATIONS
 TO AMEND ARSD 20:10:33:19

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
4/15 04	Filed and Packeted;
4/22 04	Weekly Filings;
5/13 04	Order Granting Petition to Amend Rules; Order Opening Rulemaking Proceedings;
7/30 04	Fiscal Note;
7/20 04	Small Business Impact Statement Forms;
7/20 04	Notice of Public Hearing to Adopt Rules;
7/22 04	Admission of Service signed by Pamela S. Roberts, Dept. of Labor;
7/22 04	Waiver of Waiting Period signed by Pamela S. Roberts, Dept. of Labor;
7/22 04	Admission of Service signed by Jo Dull, B&M;
7/22 04	Admission of Service signed by Marjorie Purnat, LRC;
7/26 04	Affidavit of Mailing Notice to Interested Parties;
8/4 04	Affidavit of Publication (Capital Journal);
8/10 04	Affidavit of Publication (Black Hills Pioneer);
8/12 04	Affidavit of Publication (Rapid Register);
8/19 04	Affidavit of Mailing Notice to Interested Parties;
8/31 04	Affidavit of Publication (Black Hills Pioneer);
9/7 04	Affidavit of Publication (Rapid Register);
9/7 04	Affidavit of Publication (Capital Journal);
9/29 04	Comments from SDTA;
9/30 04	Comments from WWC License LLC;
9/30 04	Comments from R.C. Minnesota, Inc.
9/30 04	Comments from Verizon Wireless;
9/30 04	Comments from Midcontinent;

10/1/04 Minutes;
10/1/04 Fiscal Note signed by BFM;
10/8/04 Affidavit;
10/8/04 Approval of Rules;
10/14/04 Approval of Rules signed by LRC;
10/20/04 Certificate;
10/20/04 Packet Closed.

RM 04-001

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April 15, 2004

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APR 15 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Pam Bonrud
Executive Secretary
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: IN THE MATTER OF ARSD 20:10:33:19
Our file: 0053

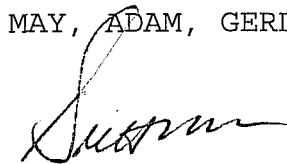
Dear Pam:

Enclosed are original and ten copies of a Petition for Rulemaking from Midcontinent Communications. Please file the enclosure.

With a copy of this letter, I am serving the Petition on Richard Coit and Jim Cremer. Thank you very much.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



BRETT KOENECKE

BK:mw

Enclosures

cc/enc: Richard Coit
James M. Cremer
Tom Simmons

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF SOUTH DAKOTA

IN THE MATTER OF ARSD 20:10:33:19)
)
) PETITION FOR
) RULEMAKING
)

Midcontinent Communications, a duly authorized Local Exchange Carrier serving exchanges in South Dakota, by and through its undersigned attorneys of record, hereby files this Petition for Rulemaking, pursuant to SDCL § 1-26-13, seeking the Commission's amendment of the rule found at ARSD 20:10:33:19.

The Rule as currently written:

20:10:33:19. Auxiliary and battery power requirements. Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The batteries shall be tested and reported internally on a regular basis, not to exceed once a year.

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

Advances in technology and consumer preference have made the rule impractical. The rule makes no apparent provision for the use of telephony architecture other than traditional copper based systems. The rule's reference to "remote terminating electronics" would appear to consider only electronic devices powered on copper plant by DC power. The rule does not appear to speak to electronic devices powered on coaxial cable plant by AC power, modems powered by AC power, computers powered by AC power, VOIP devices, cellular telephone

tower electronics, wireless cellular telephone receivers, FTTH fiber-optic receivers, MTA receivers, Vonage phone adapters and network interface units and future unknown communication devices. None of the above named technologies can easily comply with the Rule.

Midcontinent for example uses a coaxial cable based system which is “always on” but which requires the use of amplifiers on alternating current which make batteries impractical. Batteries, being comprised of numbers of cells in order to meet stated voltage, can fail to provide the stated voltage and fail the system if just one cell fails.

Further, the days of finding analog telephones in the majority of South Dakota residences have passed. Currently the market for handheld receivers is dominated by two types of equipment, wireless receivers with electrically powered bases and wireless cell phones. The current rule provides no solution for keeping the service of either of these equipment types operating during a power outage. A third entry into the telephone market place, VOIP, also is a technology that the current rules have not taken into consideration and is under study by the Federal Communications Commission (FCC) pertaining to current telephony rules. The purchase of any of these types of equipment by South Dakota telephone customers is a choice that precludes service operation during periods of normal interruptions of commercial power and is outside the control of the telephony provider.

Midcontinent proposes amending the rule to read as follows:

All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange.

All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power

interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each Local central office, toll switching office or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

This new rule would provide a baseline for service requirements, would allow telephony providers to use their ingenuity to determine which system of electrical backup will keep their customers in communication and would allow for technical and technological innovations in the future. Midcontinent urges the commission to adopt this revision to the rule in place.

Dated this 15th day of April, 2004.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

BRETT KOENECKE

Attorneys for Midcontinent

503 South Pierre Street

P.O. Box 160

Pierre, South Dakota 57501-0160

Telephone: (605)224-8803

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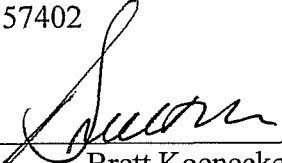
CERTIFICATE OF SERVICE

Brett Koenecke of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 15th day of April, 2004, he mailed by United States mail, first class postage thereon prepaid, a true

and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

Richard D. Coit, Executive
Director and General Counsel
SDTA
P.O. Box 57
Pierre, SD 57501-0057

James M. Cremer
Bantz, Gosch & Cremer
P.O. Box 970
Aberdeen, SD 57402



Brett Koenecke

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

20:10:35:12 Reporting of violations.

20:10:35:13 Information provided for complaints.

20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of April 15, 2004 through April 21, 2004

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact
Delaine Kolbo within five business days of this report. Phone: 605-773-3201

RULEMAKING

**RM04-001 In the Matter of the Petition of Midcontinent Communications to Amend ARSD
20:10:33:19.**

On April 15, 2004, Midcontinent Communications (Midcontinent) filed a Petition For Rulemaking to amend ARSD 20:10:33:19. Midcontinent states that advances in technology and consumer preference have made the rule impractical. Midcontinent has filed proposed amendments to the rule.

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 04/15/04

TELECOMMUNICATIONS

**TC04-078 In the Matter of the Filing for Approval of an Amendment to an Interconnection
Agreement between Qwest Corporation and MCImetro Access Transmission
Services, LLC.**

On April 15, 2004, the Commission received a filing for approval of a Qwest DSL (with discount) provided with UNE-P Amendment to the Interconnection Agreement between Qwest Corporation and MCImetro Access Transmission Services, LLC. According to the parties, the Amendment adds terms, conditions and rates for Qwest DSL (with discount) provided with UNE-P. Any party wishing to comment on the Amendment may do so by filing written comments with the Commission and the parties to the Amendment no later than May 5, 2004. Parties to the Amendment may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest
Date Filed: 04/15/04
Initial Comments Due: 05/05/04

**TC04-079 In the Matter of the Application of RC Communications, Inc. for a Certificate of
Authority to Provide Local Exchange Services in the Territory of Qwest Corporation.**

On April 15, 2004, RC Communications, Inc. filed for Commission approval to provide competitive local exchange services in Corona, South Dakota. RC Communications, Inc. is a facilities-based provider currently providing service in Wilmot, Summit, Peever and Veblen. The customers in Corona will be connected with a fiber from the Wilmot switch. Copper and fiber backbone will be constructed in the town of Corona to serve individual customers.

Staff Analyst: Michele Farris
Staff Attorney: Karen Cremer

Date Filed: 04/15/04

Intervention Deadline: 05/07/04

TC04-080 In the Matter of the Filing for Approval of an Agreement for Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and AT&T Communications of the Midwest, Inc.

On April 16, 2004, the Commission received a filing for approval of an Agreement for Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services Between Qwest Corporation (Qwest) and AT&T Communications of the Midwest, Inc. (AT&T). According to the parties, the "Agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to AT&T for the provision of local exchange services." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than May 6, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest

Date Filed: 04/16/04

Initial Comments Due: 05/06/04

TC04-081 In the Matter of the Application of Midcontinent Communications for Approval to Expand its Certificate of Authority to Provide Local Exchange Service in the Waubay Exchange of the Service Territory of Interstate Telecommunications Cooperative, Inc.

On April 20, 2004, Midcontinent Communications filed an application to amend its certificate of authority to provide local exchange service and long distance services in the Waubay exchange of Interstate Telecommunications Cooperative, Inc. (ITC), a rural telecommunications carrier. In the Waubay exchange Midcontinent Communications will use a combination of ITC resold services and the hybrid fiber coax of its cable plant to provide primary transport for residential telephone service. Midcontinent Communications will also provide intrastate and interstate interexchange services for commercial and residential customers. Midcontinent Communications has requested interconnection pursuant to 47 U.S.C. Section 251(f)(1)(A) with ITC, requests confidential treatment of its financial information, and requests a waiver from providing service to the entire ITC service area to provide local exchange service in the Waubay exchange of ITC.

Staff Analyst: Harlan Best

Staff Attorney: Karen E. Cremer

Date Docketed: 04/20/04

Intervention Deadline: 05/07/04

TC04-082 In the Matter of the Filing for Approval of a Business Escalation Agreement between Qwest Corporation and MCI WorldCom Network Services, Inc. and its Affiliates.

On April 21, 2004, the Commission received a filing for approval of a Business Escalation Agreement between MCI WORLDCOM Network Services, Inc. and its affiliates and Qwest Corporation. According to the parties, the Agreement "is made to agree to attend and participate in executive meetings as necessary, the purpose of which will be to address and discuss issues, open items or disputes and future business needs." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than April 29, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest

Date Filed: 04/21/04

Initial Comments Due: 05/11/04

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You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>**

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

IN THE MATTER OF THE PETITION OF)	ORDER GRANTING
MIDCONTINENT COMMUNICATIONS TO)	PETITION TO AMEND
AMEND ARSD 20:10:33:19)	RULES; ORDER OPENING
)	RULEMAKING
)	PROCEEDING
)	RM04-001

On April 15, 2004, the Public Utilities Commission (Commission) received a Petition for Rulemaking from Midcontinent Communications. Pursuant to SDCL 1-26-13, "[a]n interested person may petition an agency requesting the promulgation, amendment, or repeal of a rule." Within thirty days after receiving the petition, the Commission must either deny the petition in writing or initiate rulemaking proceedings.

Midcontinent proposed to amend the following rule: ARSD 20:10:33:19. Midcontinent states that advances in technology and consumer preference have made the rule impractical. Midcontinent has filed proposed amendments to the rule.

The Commission has jurisdiction over this matter pursuant to SDCL 1-26-13, 49-31-3, and 49-31-5. On May 11, 2004, the Commission considered Midcontinent's petition. The Commission voted unanimously to grant the petition and initiate rulemaking proceedings. Pursuant to SDCL 1-26-4, a public hearing shall be held on the proposed rules. Pursuant to SDCL 1-26-4.2, notice of the hearing shall be published in three newspapers of general circulation in different parts of the state, and the notice shall also be sent to interested persons. It is therefore

ORDERED, that Midcontinent's Petition for Rulemaking is granted; and it is

FURTHER ORDERED, that the Commission shall open a rulemaking docket concerning the amendment of ARSD 20:10:33:19.

Dated at Pierre, South Dakota, this 13th day of May, 2004.

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 Kalbo </u>
Date: <u> 5/18/04 </u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

 Robert K. Sahr
ROBERT K. SAHR, Chairman

 Gary Hanson
GARY HANSON, Commissioner

 James A. Burg
JAMES A. BURG, Commissioner

**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	10	Department of Labor
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE 20:10:33:19 and 20:10:35:11
 Hearing Date August 24, 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
TOTAL	0	0
Local Subdivisions:		
TOTAL	0	0
Revenue Increases (Decreases) State & Local:		
TOTAL	0	0

APPROVED  DATE 7/20/04
 Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year: All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

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(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered 20:10:33:19 and 20:10:35:11.

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

There are no fiscal impacts on state agencies or local governmental subdivisions.

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:33:19

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

Direct impact *(please complete remainder of form)*

Indirect impact *(please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)*

The rule would provide a baseline for service requirements regarding which backup system is best for their company.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

3. What is the basis for the enactment of the rules(s)?

Required to meet changes in federal law

Required to meet changes in state law

Required solely due to changes in date (i.e. must be changed annually)

Other: _____

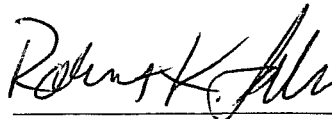
4. Why is the rule(s) needed?

5. What small businesses or types of small businesses would be subject to the rule?

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____
7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No
- a. If "yes," how many reports must a small business submit to the state on an annual basis?
- b. If "yes," how much ongoing recordkeeping within the business is necessary?
- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?
- The average owner of a small business should be able to complete the reports and/or records with no assistance
 - It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 - It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 - It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 - Other _____
 - Unknown - please explain _____
8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?
 No - please explain _____
 Yes - please explain _____

7/20/04

Dated



Authorized Signature

Public Utilities Commission
Name of Agency

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:35:11

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
- Direct impact (please complete remainder of form)
 - Indirect impact (please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)
2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The change to ARSD 20:10:35:11 requires a telephone solicitor to update the South Dakota portion of the do not call list every 31 days instead of every 90 days. This rule change will affect small businesses who make unsolicited telephone calls to South Dakota residential telephone subscribers.

3. What is the basis for the enactment of the rules(s)?
- Required to meet changes in federal law
 - Required to meet changes in state law
 - Required solely due to changes in date (i.e. must be changed annually)
- Other: _____

4. Why is the rule(s) needed?
- South Dakota has adopted the federal do not call list as its list. The Federal Trade Commission recently changed its rule from 90 days to 31 days under its safe harbor provisions. The state rule change will make the state rule more consistent with the federal rule. The effect of the rule is that once a consumer places his/her residential telephone number on the list, the consumer will only need to wait for a maximum of 31 days before telephone solicitors must stop making unsolicited calls.

5. What small businesses or types of small businesses would be subject to the rule?
- All small businesses that make unsolicited telephone calls to residential telephone subscribers will be subject to the change.

6. Estimate the number of small businesses that would be subject to the rule.
- 1-99 100-499 500-999 1,000-4,999 More than 5,000

Unknown - please explain:

All telephone solicitors who make unsolicited telephone calls to South Dakota residential telephone subscribers must pay an annual fee to the Commission. To date, 90 have paid the fee but the Commission cannot verify that all solicitors who are making calls have paid the fee. Five of the 90 have five or less employees and eight have six to 49 employees.

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

Records would need to be updated regarding who the business cannot call.

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Reports are not required.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to download the list from the FTC and not call numbers on the list.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
 It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 Other _____
 Unknown - please explain _____

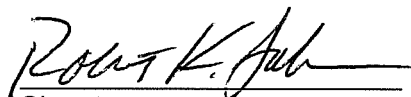
8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain:

Even if our state rule was not changed, the solicitor should still be following the federal rule.

Yes - please explain _____

7/20/04
Dated Authorized


Signature

Public Utilities Commission
Name of Agency



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: 224-9210

July 22, 2004

Capital Journal
P. O. Box 878
Pierre, SD 57501-0878

To whom it may concern:

Please publish the enclosed notice in your paper as a display advertisement for one issue on July 28, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

Karen E. Cremer
dk

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: (605) 642-9060

July 22, 2004

Black Hills Pioneer
P. O. Box 7
Spearfish, SD 57783-0007

Attention: Marty

Please publish the enclosed notice in your paper as a display advertisement for one issue on July 28, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: (605) 692-2979

July 22, 2004

Brookings Register
P. O. Box 177
Brookings, SD 57006-0177

Attention: Britt

Please publish the enclosed notice in your paper as a display advertisement for one issue on July 28, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11, and
- (2) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 22nd day of July, 2004.


Secretary of Department of Labor

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
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- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
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- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

20:10:35:12 Reporting of violations.

20:10:35:13 Information provided for complaints.

20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, Pamela S. Roberts, Secretary of Department of Labor, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11.

Dated this 22nd day of July, 2004.

Handwritten signature of Pamela S. Roberts in cursive script, written over a horizontal line.

Secretary of Department of Labor

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

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(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

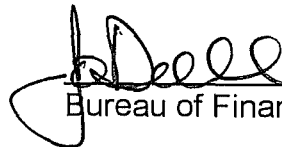
IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11,
- (2) the notice of hearing, and
- (3) the fiscal note

is hereby admitted at Pierre, South Dakota, this 11th day of July, 2004.


Bureau of Finance and Management

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

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batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

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Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	10	Department of Labor
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE 20:10:33:19 and 20:10:35:11
 Hearing Date August 24, 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies	First Year Impact	Continuous-Yearly Impact
TOTAL	0	0
Local Subdivisions		
TOTAL	0	0
Revenue Increases (Decreases) State & Local		
TOTAL	0	0

APPROVED  DATE 7/20/04
 Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

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batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

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Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered 20:10:33:19 and 20:10:35:11.

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

There are no fiscal impacts on state agencies or local governmental subdivisions.

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:33:19

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

- Direct impact (*please complete remainder of form*)
 Indirect impact (*please provide a brief explanation, then sign, date, and submit form.*
Questions 2 through 8 do not need to be answered)

The rule would provide a baseline for service requirements regarding which backup system is best for their company.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

3. What is the basis for the enactment of the rules(s)?

- Required to meet changes in federal law
 Required to meet changes in state law
 Required solely due to changes in date (i.e. must be changed annually)

Other: _____

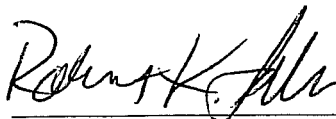
4. Why is the rule(s) needed?

5. What small businesses or types of small businesses would be subject to the rule?

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____
7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No
- a. If "yes," how many reports must a small business submit to the state on an annual basis?
- b. If "yes," how much ongoing recordkeeping within the business is necessary?
- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?
- The average owner of a small business should be able to complete the reports and/or records with no assistance
 - It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 - It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 - It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 - Other _____
 - Unknown - please explain _____
8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?
 No - please explain _____
 Yes - please explain _____

7/20/04

Dated



Authorized Signature

Public Utilities Commission
 Name of Agency

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:35:11

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

- Direct impact (please complete remainder of form)
 Indirect impact (please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The change to ARSD 20:10:35:11 requires a telephone solicitor to update the South Dakota portion of the do not call list every 31 days instead of every 90 days. This rule change will affect small businesses who make unsolicited telephone calls to South Dakota residential telephone subscribers.

3. What is the basis for the enactment of the rule(s)?

- Required to meet changes in federal law
 Required to meet changes in state law
 Required solely due to changes in date (i.e. must be changed annually)

Other: _____

4. Why is the rule(s) needed?

South Dakota has adopted the federal do not call list as its list. The Federal Trade Commission recently changed its rule from 90 days to 31 days under its safe harbor provisions. The state rule change will make the state rule more consistent with the federal rule. The effect of the rule is that once a consumer places his/her residential telephone number on the list, the consumer will only need to wait for a maximum of 31 days before telephone solicitors must stop making unsolicited calls.

5. What small businesses or types of small businesses would be subject to the rule?

All small businesses that make unsolicited telephone calls to residential telephone subscribers will be subject to the change.

6. Estimate the number of small businesses that would be subject to the rule.

- 1-99 100-499 500-999 1,000-4,999 More than 5,000

Unknown - please explain:

All telephone solicitors who make unsolicited telephone calls to South Dakota residential telephone subscribers must pay an annual fee to the Commission. To date, 90 have paid the fee but the Commission cannot verify that all solicitors who are making calls have paid the fee. Five of the 90 have five or less employees and eight have six to 49 employees.

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

Records would need to be updated regarding who the business cannot call.

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Reports are not required.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to download the list from the FTC and not call numbers on the list.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
 It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 Other _____
 Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain:

Even if our state rule was not changed, the solicitor should still be following the federal rule.

Yes - please explain _____

7/20/04
Dated Authorized

Robert K. Aub
Signature

Public Utilities Commission
Name of Agency

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11,
- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 22nd day of July, 2004.



Legislative Research Council

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

- 20:10:35:12 Reporting of violations.
- 20:10:35:13 Information provided for complaints.
- 20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	10	Department of Labor
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE 20:10:33:19 and 20:10:35:11
 Hearing Date August 24, 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
TOTAL	0	0
Local Subdivisions:		
TOTAL	0	0
Revenue Increases (Decreases) State & Local:		
TOTAL	0	0

APPROVED  DATE 7/20/04
 Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

~~batteries shall be tested and reported internally on a regular basis, not to exceed once a year: All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.~~

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

20:10:35:12 Reporting of violations.

20:10:35:13 Information provided for complaints.

20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered 20:10:33:19 and 20:10:35:11.

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

There are no fiscal impacts on state agencies or local governmental subdivisions.

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:33:19

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

Direct impact *(please complete remainder of form)*

Indirect impact *(please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)*

The rule would provide a baseline for service requirements regarding which backup system is best for their company.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

3. What is the basis for the enactment of the rules(s)?

Required to meet changes in federal law

Required to meet changes in state law

Required solely due to changes in date (i.e. must be changed annually)

Other: _____

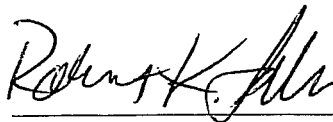
4. Why is the rule(s) needed?

5. What small businesses or types of small businesses would be subject to the rule?

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____
7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No
- a. If "yes," how many reports must a small business submit to the state on an annual basis?
- b. If "yes," how much ongoing recordkeeping within the business is necessary?
- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?
- The average owner of a small business should be able to complete the reports and/or records with no assistance
 - It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 - It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 - It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 - Other _____
 - Unknown - please explain _____
8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?
 No - please explain _____
 Yes - please explain _____

7/20/04

Dated



Authorized Signature

Public Utilities Commission
Name of Agency

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:35:11

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
- Direct impact (please complete remainder of form)
 - Indirect impact (please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The change to ARSD 20:10:35:11 requires a telephone solicitor to update the South Dakota portion of the do not call list every 31 days instead of every 90 days. This rule change will affect small businesses who make unsolicited telephone calls to South Dakota residential telephone subscribers.

3. What is the basis for the enactment of the rules(s)?
- Required to meet changes in federal law
 - Required to meet changes in state law
 - Required solely due to changes in date (i.e. must be changed annually)
- Other: _____

4. Why is the rule(s) needed?

South Dakota has adopted the federal do not call list as its list. The Federal Trade Commission recently changed its rule from 90 days to 31 days under its safe harbor provisions. The state rule change will make the state rule more consistent with the federal rule. The effect of the rule is that once a consumer places his/her residential telephone number on the list, the consumer will only need to wait for a maximum of 31 days before telephone solicitors must stop making unsolicited calls.

5. What small businesses or types of small businesses would be subject to the rule?

All small businesses that make unsolicited telephone calls to residential telephone subscribers will be subject to the change.

6. Estimate the number of small businesses that would be subject to the rule.
- 1-99
 - 100-499
 - 500-999
 - 1,000-4,999
 - More than 5,000

Unknown - please explain:

All telephone solicitors who make unsolicited telephone calls to South Dakota residential telephone subscribers must pay an annual fee to the Commission. To date, 90 have paid the fee but the Commission cannot verify that all solicitors who are making calls have paid the fee. Five of the 90 have five or less employees and eight have six to 49 employees.

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

Records would need to be updated regarding who the business cannot call.

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Reports are not required.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to download the list from the FTC and not call numbers on the list.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other _____
- Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain:

Even if our state rule was not changed, the solicitor should still be following the federal rule.

Yes - please explain _____

7/20/04
Dated Authorized

Robert K. Johnson
Signature

Public Utilities Commission
Name of Agency

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

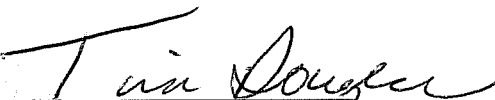
AFFIDAVIT OF MAILING NOTICE
TO INTERESTED PARTIES

I, Delaine Kolbo, under oath, do swear, that on July 26, 2004, I mailed, e-mailed or faxed a copy of the notice attached to this affidavit to the list of persons attached to this affidavit. I further swear that the attached list is a true and correct list of all persons who have requested advance notice of rulemaking proceedings by the Public Utilities Commission.



Delaine Kolbo

Subscribed and sworn to
before me this 26th day
of July, 2004



Notary Public - South Dakota

(SEAL)

My Commission Expires
_____, 20__.

TINA DOUGLAS
My Commission Expires
April 8, 2005

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

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The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

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Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

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Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

Ms. Darla Pollman Rogers
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Pierre, SD 57501-0280

Colleen E. Sevoid
Manager-Regulatory Affairs
Qwest Corporation
125 South Dakota Avenue, 8th Floor
Sioux Falls, SD 57194

Mr. Richard J. Helsper
Attorney at Law
Glover, Helsper & Rasmussen, P.C.
100 22nd Avenue, Suite 200
Brookings, SD 57006

Citizens Telecommunications Company
of Minnesota, Inc.
2378 Wilshire Boulevard
Mound City, MN 55354

Farmers Mutual Telephone Company
P. O. Box 368
Bellingham, MN 56212

Great Plains Communications
1635 Front Street
Blair, NE 68008

Hills Telephone Company
P. O. Box 349
Garretson, SD 57030

RT Communications, Inc.
P. O. Box 506
Worland, WY 82401

Three River Telco
P. O. Box 66
Lynch, NE 68757

West River Telecommunications Coop
P. O. Box 467
Hazen, ND 58545

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Woonsocket, SD 57385-0277

Mr. William P. Heaston
General Counsel
PrairieWave
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Sioux Falls, SD 57108-8835

Consolidated Telcom
P. O. Box 1077
Dickinson, ND 58601

Dickey Rural Communications, Inc.
Dickey Rural Telephone Coop
P. O. Box 69
Ellendale, ND 58436

Heartland Telecommunications
221 East Hickory Street
Mankato, MN 56002

Northeast Nebraska Telephone Co.
110 East Elk Street
Jackson, NE 68743

Red River Telecom, Inc.
P. O. Box 136
Abercrombie, ND 58001-0136

Valley Telephone Company
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Underwood, MN 56586

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Marshall MN 56258

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Ronald Kerher
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Eugene Pearson
Craftmatic of 10,000 Lakes Inc.
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West St. Paul MN 55118

Shawn Stern
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Kirkland WA 98034

Marsha Gabehart
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Shawnee Mission ks 66202

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Brian Garofalo
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St. Paul MN 55102

Gary Smith
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Portland OR 97267

Daniel Lambert
Plaza Resorts Inc.
2419 East Commercial Boulevard #100
Ft. Lauderdale FL 33308

Ross Marketing, Inc.
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Hiawatha IA 52233-9500

Suzanne Loomis
Primerica Financial Services inc.
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Duluth GA 30099

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Woodbury NJ 08053

David Hagen
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Dwaine Heppler
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Six Parkway North Center
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George Sheehy
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5259 Coconut Creek Parkway
Margate fl 33063

Debra Holder
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1 North Jefferson
St. Louis MO 63103

Lisa Contreras
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Stuart Discount
Tele-Response Center, Inc.
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Devin House
Student Loan Consolidation Center, LLC
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*
 * Total number of users subscribed to the list: 99
 * Total number of local host users on the list: 14
 *

Kolbo, Delaine

From: Emerson, Terry
Sent: Monday, July 26, 2004 3:51 PM
To: Kolbo, Delaine
Subject: FW: File: "PUCAGENDAS LIST"

-----Original Message-----

From: L-Soft list server at South Dakota (1.8d)
To: Terry Emerson
Sent: 7/26/2004 3:48 PM
Subject: File: "PUCAGENDAS LIST"

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Darrell H. Gomarko
Deb Gregg
James Groft
Amy Gross
Cindy Grosvenor
Mick Grosz
Bernice Hackett
Rich Hahn
Sherry Hansel
Gary Hanson
Tom Harmon
Pamela Harrington
Bill Heaston
Jerry Heiberger
Larry Hettinger
Larry Hettinger
Jeff Hind
Marlena Hinzman
JoAnn Hohrman
Gary Huisken
Karen M. Huizenga
Brian Iverson
Jeffcoat-Sacco, Illona
Paul Jensen
Dick Johnson
Julie M. Johnson
Philip Josephson
Carol Katz
Janet Keller
Kelsch, RaeAnn
Brenda Kleinjan
Jodi Klemann
Rita Klug
Brett Koenecke
Delaine Kolbo
Kevin Kouba
Bonnie Krause
Gene Kroell
Denny Law
Leach, Matthew
Don Lee
Jon Lehner
Mary Lohnes
Bonnie Lorang
Warren Lotsberg
Al Lundy
Heath Mallory
Martin, Debra A
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*
* Total number of users subscribed to the list: 187
* Total number of local host users on the list: 21
*

Kolbo, Delaine

From: Emerson, Terry
Sent: Monday, July 26, 2004 3:52 PM
To: Kolbo, Delaine
Subject: FW: File: "PUCFILINGS LIST"

-----Original Message-----

From: L-Soft list server at South Dakota (1.8d)
To: Terry Emerson
Sent: 7/26/2004 3:48 PM
Subject: File: "PUCFILINGS LIST"

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gail.baranko@XCELENERGY.COM	Gail Baranko
tbargar@BILLSOFT.COM	Toby Bargar
kbarker@THEKDWGROUP.COM	Katherine Barker
MBarry@OTPCO.COM	Barry, Melissa
mbenton@MIDSTATESD.NET	Mark Benton
gjbernard@MTNLAW.COM	Greg Bernard
harlan.best@STATE.SD.US	Harlan Best
sbiegler@BLACKHILLSFIBER.COM	Sonny Biegler
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JoAnn Hohrman
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Gary Huisken
Brian Iverson
Frank James
Dick Johnson
Carol Katz
Janet Keller
Kelsch, RaeAnn
Matthew T. Kinney
Jodi Klemann
Brett Koenecke
Delaine Kolbo
Kevin Kouba
Erik Kraai
Bonnie Krause
Gene Kroell
Cindy Kuismi
Denny Law
Leach, Matthew
Don Lee
Jon Lehner
Mary Lohnes
Bonnie Lorang
Al Lundy
Martin, Debra A
Tom Marvin
MARUYAMA Masahiro
Matt McCaulley
Douglas Mckillip
Jeff McKinney
Bob Mercer
Diane Merz
Glenn Miller
Kathy Moller
Clark Mortensen
Terry Myers
Barb Newman
Kimberly Nielsen
Loren Noess
Judy Page
Jim Pahl
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swevik@BLACKHILLSPOWER.COM	Stuart Wevik
tjw@GPGNLAW.COM	Talbot Wieczorek
james.c.wilcox@XCELENERGY.COM	Wilcox, James C
jewilson@MIDAMERICAN.COM	Jim Wilson
LakeLeader@AOL.COM	John Wylie

*
 * Total number of users subscribed to the list: 162
 * Total number of local host users on the list: 21
 *

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AUG 04 2004

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION



Capital Journal

AFFIDAVIT OF PUBLICATION

State of South Dakota, County of Hughes

John H. Sterling of said county, being, first duly sworn, on oath, says: That he is the publisher or an employee of the publisher of the Capital Journal, a daily newspaper published in the City of Pierre in said County of Hughes and State of South Dakota; that he has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the display advertisement headed Public Utilities Commission Notice of Public Hearing To Adopt Rules a printed copy of which, taken from the paper in which the same was published, and which is here-to attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

<u>July 28</u>	<u>2004</u>	<u>20</u>
	<u>20</u>	<u>20</u>
	<u>20</u>	<u>20</u>
	<u>20</u>	<u>20</u>
	<u>20</u>	<u>20</u>

That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$101.10.

Signed: John H. Sterling

subscribed and sworn to before me this 3 day of August 2004

Maugh Barker

Notary Public in and for the County of Hughes, South Dakota.
My Commission expires 2-19, 2009.

**PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC HEARING TO ADOPT RULES**

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 a.m., to consider the adoption and amendment of proposed rules numbered 20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephony solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates for the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time or exclude matters that are not described in this notice.

Notice is further given to individuals with disabilities that the hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is 605-773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address:
<http://www.state.sd.us/puc>.

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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Affidavit of Publication

STATE OF SOUTH DAKOTA)
COUNTY OF LAWRENCE)

Stewart Huntington of said County and State being first duly sworn, on his oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Stewart Huntington, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and That I, Stewart Huntington, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Public Utilities Commission Notice
of Public Hearing to Adopt Rules
"Display Advertisement"

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 28th day of July, 2004 and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 216⁰⁰, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Stewart Huntington

Subscribed and sworn to before me this 28th day of July, 2004

Keith Johnson

Notary Public, Lawrence County, South Dakota

My commission expires: 10-24-2004

Public Utilities Commission Notice

A public hearing will be held in Pierre, South Dakota on August 24, 2004, at 8:30 A.M., to consider the proposed rules.

The effects of the proposed rules in Section 20:10:33:19, the amendment allowing telephony providers to determine the time of a power outage in communication during a power outage. In Section 20:10:35:11, the amendment allowing telephone calls to South Dakota residential telephone numbers to be registered every five days starting on January 1, 2005. The South Dakota Public Utilities Commission will not call register.

The reason for the proposed rule change consists of more than traditional telephone calls. The reason for the proposed rule change is the Federal Trade Commission's requirement that telephone numbers be registered.

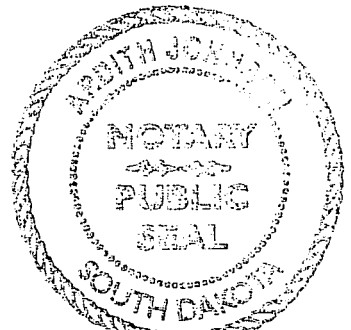
Persons interested in presenting comments may do so by appearing in person at the public hearing, South Dakota Public Utilities Commission, State Capitol Building, Pierre, South Dakota, or by mail must reach the Public Utilities Commission by August 18, 2004.

After the hearing, the Commission will consider the proposed rules. The Commission may amend the rules as necessary. Matters that are described in this notice are not subject to judicial review.

Notice is further given to individuals who are affected by the proposed rules that they may wish to contact the Commission at an accessible place. Please notify the Commission if you have special needs for making special arrangements for attending the hearing.

Copies of the proposed rules may be obtained from the South Dakota Public Utilities Commission, State Capitol Building, 500 East Capitol Avenue, Pierre, SD 57501-5070.

The proposed rules may also be viewed at the following address: <http://www.state.sd.gov>



Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Tamera Drew of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed

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AUG 12 2004

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

that the

Display Legal

Brookings and State of South Dakota, for more than one a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit

said newspaper for _____ 1 times, to-wit:

July 28, 2004

said Exhibit "A" inures to the sole benefit fo the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

One hundred fifty-two dollars and sixty cents \$152.60

Tamera Drew

Subscribed and sworn to before me this 5th day of August 2004.

Christina Nelson

Notary Public in and for the County of Brookings, South Dakota.
My Commission expires April 27, 2006

Aberdeen.
The cases involve separate incidents but the same alleged victim, Brown County State's Attorney Mark McNeary said. He said Hurst and the infant are not related.

McNeary said the infant is in serious but stable condition at a Sioux Falls hospital.

Hurst was expected to report to Brown County authorities on Wednesday.

anson Siding

house cats. And an officer killed a lion behind a home near Hermosa when it approached him in a menacing way.

The latest carcass will be sent to SDSU for tests. It was somewhat thin but appeared healthy, Griffin said.

ention:

bow Play Systems
looking for children
model in our
EAR 2005 catalog.

We need kids between the ages of 2 through 12, both boys & girls.

Our photo shoots will be Mon.-Wed.,

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Aug. 31-Sept. 2.

In case of inclement weather, we may extend the shoot.

se call us at **692-1500**



Institute's 2,300. Its enrollment surpassed Augustana College's 1,809 and the 1,485 at the University of Sioux Falls, Lee said in a report to the South Dakota Board of Regents.

USDSU offers higher education programs from South Dakota State University, the University of South Dakota and Dakota State University.

The Sioux Falls market is "becoming more crowded all the time," the report said.

It says University Alliance is an online competitor, Bellevue University of Omaha started classes in Sioux Falls last year and that the University of Mary in Bismarck, N.D., intends to do the same in the fall.

said. "If we can do that, we've made great strides."

USDSU could hurt some of the newer competitors if it changed its marketing, Halverson said. "If they really, really go after it, places like Mary and others would be in trouble."

Lee thinks USDSU will grow at a rate at least equal to that of Sioux Falls for the next several years.

"We don't recruit statewide. We don't recruit regionally. We don't send people on the road to bring people here," he said. "We really stick to our knitting, which is to provide service to the community of Sioux Falls and its economic development."

Public Utilities Commission Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 AM, to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows;

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

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Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/psc>



Legislative Research Council

Rep. Orville B. Smidt, Chair
Sen. Ed Olson, Vice Chair

James Fry, Director
Doug Decker, Code Counsel

July 29, 2004

Robert Sahr, Commissioner
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Dear Commissioner Sahr:

The Public Utilities Commission has proposed amendments to ARSD 20:10:33:19 and 20:10:35:11 regarding telecommunication services. We have reviewed the proposed rules, scheduled for hearing on August 24, 2004, and approve the rules for legality, with the following exceptions:

SDCL 2-14-6 provides that any word used in the singular number includes the plural. Writing in the singular number is the recommended form and style for rules and legislation.

20:10:33:19 – The term, telephony provider, is not used in statute or rule, however, the term, local service provider, is defined. Either use local service provider or define the term, telephony provider. A catastrophic power interruption is defined as a lost of power to more than ten percent of the provider's customers. A list of circumstances that could cause a power interruption is also provided. If this list is meant to be a second condition for determining a catastrophic event, please reword this sentence. If the list is meant to provide examples of a catastrophic event, please delete the list.

This letter is based on a preliminary review of your rules. Attached are your rules edited for form and style pursuant to SDCL 1-26-6.5 and directions for submitting the final draft of the rules. If you have any questions, please don't hesitate to call me or the staff member who has reviewed your rules.

Sincerely yours,

Doug Decker
Code Counsel

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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Form & style

JUL 29 2004

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

electrical power

Each local service

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. ~~All telephony~~

~~providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall~~

A
or less

is any interruption that affects

policy or goal

~~provide best efforts to maintain service during catastrophic power interruptions.~~

A

~~Catastrophic power interruptions include all events where commercial power is lost to more than ten percent of the customers served within an exchange. Events causing~~

is any when electrical

Any

~~catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires, and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions, and releases of poisonous gas into the atmosphere.~~

delete or reword

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The

batteries shall be tested and reported internally on a regular basis, not to exceed once
For the purposes of this rule any are
a year: ~~All wireless or cellular tower electronics shall be considered a tandem~~
~~switching office for the applicability of this rule.~~

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

20:10:35:12 Reporting of violations.

20:10:35:13 Information provided for complaints.

20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

RECEIVED

JUL 29 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11,
- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 22nd day of July, 2004.



Legislative Research Council

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JUL 29 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Public Utilities Commission
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Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

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JUL 29 2004

ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

	CODE	NAME
DEPARTMENT	10	Department of Labor
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE 20:10:33:19 and 20:10:35:11
Hearing Date August 24, 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
TOTAL	0	0
Local Subdivisions:		
TOTAL	0	0
Revenue Increases (Decreases) State & Local:		
TOTAL	0	0

APPROVED Robert K. Ash DATE 7/20/04
Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

RECEIVED

JUL 29 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:33:19

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
 - Direct impact (*please complete remainder of form*)
 - Indirect impact (*please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered*)

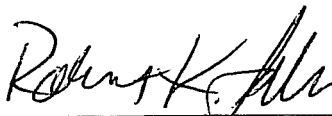
The rule would provide a baseline for service requirements regarding which backup system is best for their company.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:
3. What is the basis for the enactment of the rules(s)?
 - Required to meet changes in federal law
 - Required to meet changes in state law
 - Required solely due to changes in date (i.e. must be changed annually)
 - Other: _____
4. Why is the rule(s) needed?
5. What small businesses or types of small businesses would be subject to the rule?

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____
7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No
- a. If "yes," how many reports must a small business submit to the state on an annual basis?
- b. If "yes," how much ongoing recordkeeping within the business is necessary?
- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?
- The average owner of a small business should be able to complete the reports and/or records with no assistance
 - It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 - It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 - It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 - Other _____
 - Unknown - please explain _____
8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?
 No - please explain _____
 Yes - please explain _____

7/20/04

Dated



Authorized Signature

Public Utilities Commission
Name of Agency

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:35:11

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:

- Direct impact (please complete remainder of form)
 Indirect impact (please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The change to ARSD 20:10:35:11 requires a telephone solicitor to update the South Dakota portion of the do not call list every 31 days instead of every 90 days. This rule change will affect small businesses who make unsolicited telephone calls to South Dakota residential telephone subscribers.

3. What is the basis for the enactment of the rules(s)?

- Required to meet changes in federal law
 Required to meet changes in state law
 Required solely due to changes in date (i.e. must be changed annually)

Other: _____

4. Why is the rule(s) needed?

South Dakota has adopted the federal do not call list as its list. The Federal Trade Commission recently changed its rule from 90 days to 31 days under its safe harbor provisions. The state rule change will make the state rule more consistent with the federal rule. The effect of the rule is that once a consumer places his/her residential telephone number on the list, the consumer will only need to wait for a maximum of 31 days before telephone solicitors must stop making unsolicited calls.

5. What small businesses or types of small businesses would be subject to the rule?

All small businesses that make unsolicited telephone calls to residential telephone subscribers will be subject to the change.

6. Estimate the number of small businesses that would be subject to the rule.

- 1-99 100-499 500-999 1,000-4,999 More than 5,000

Unknown - please explain:

All telephone solicitors who make unsolicited telephone calls to South Dakota residential telephone subscribers must pay an annual fee to the Commission. To date, 90 have paid the fee but the Commission cannot verify that all solicitors who are making calls have paid the fee. Five of the 90 have five or less employees and eight have six to 49 employees.

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

Records would need to be updated regarding who the business cannot call.

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Reports are not required.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to download the list from the FTC and not call numbers on the list.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
 It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 Other _____
 Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain:

Even if our state rule was not changed, the solicitor should still be following the federal rule.

Yes - please explain _____

7/20/04
Dated Authorized

Robert K. Juh
Signature

Public Utilities Commission
Name of Agency



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: 224-9210

August 19, 2004

Capital Journal
P. O. Box 878
Pierre, SD 57501-0878

To whom it may concern:

Please publish the enclosed notice in your paper as a display advertisement for one issue on August 23, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: (605) 692-2979

August 19, 2004

Brookings Register
P. O. Box 177
Brookings, SD 57006-0177

Attention: Britt

Please publish the enclosed notice in your paper as a display advertisement for one issue on August 23, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

Karen E. Cremer
Staff Attorney

KEC:dk
Enc.



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

VIA FAX: (605) 642-9060

August 19, 2004

Black Hills Pioneer
P. O. Box 7
Spearfish, SD 57783-0007

Attention: Marty

Please publish the enclosed notice in your paper as a display advertisement for one issue on August 23, 2004.

South Dakota law requires that this notice be published as a display advertisement. Your failure to return your Affidavit of Publication containing the words "display advertisement" with your invoice will nullify your claim for publication fees.

Very truly yours,

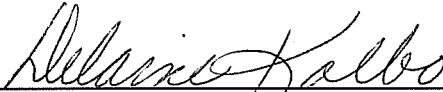
Karen E. Cremer
Staff Attorney

KEC:dk
Enc.

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

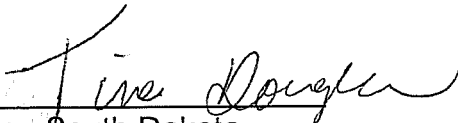
AFFIDAVIT OF MAILING NOTICE
TO INTERESTED PARTIES

I, Delaine Kolbo, under oath, do swear, that on August 19, 2004, I mailed, e-mailed or faxed a copy of the notice attached to this affidavit to the list of persons attached to this affidavit. I further swear that the attached list is a true and correct list of all persons who have requested advance notice of rulemaking proceedings by the Public Utilities Commission.



Delaine Kolbo

Subscribed and sworn to
before me this 19th day
of August, 2004



Notary Public - South Dakota

(SEAL)

My Commission Expires

~~8-19, 2004~~

TINA DOUGLAS
My Commission Expires
April 8, 2005

Public Utilities Commission
Notice of Public Hearing to Adopt Rules
Cancellation and Rescheduling

PLEASE NOTICE: A public hearing that was to be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., has been cancelled and rescheduled for Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on September 20, 2004, at 1:30 P.M. to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 30, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

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A.G. Edwards & Sons Inc.
1 North Jefferson
St. Louis, MO 63103

Access Direct Telemarketing, Inc.
4515 20th Avenue SW Ste B
Cedar Rapids, IA 52404

Access Worldwide Communicaitons, Inc.
4950 Communication Avenue Suite 300
Boca Raton, FL 33431

Jeff Schmitt
Advanced Data Comm., Inc.
301 Data Court
Dubuque, IA 52003

Duke Loper
Aegis Communications Group, Inc.
7880 Bent Branch Drive/Suite 150
Irving, TX 75063

Affinitas Corporation
1015 North 98th Street, Suite 100
Omaha, NE 68114

George Kestler
Americall Group, Inc.
550 East Diehl Road
Naperville, IL 60563

Larry Rathbone
American Exteriors, Inc.
1169 W Littleton Blvd
Littleton, CO 80120

Dwaine Heppler
APAC Customer Services Inc.
Six Parkway North Center
Deerfield, IL 60015

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Morristown, NJ 07962

Rebecca Yung-Eng
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Karen Sumner
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New York, NY 10104

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425 Raritan Center Parkway
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10304 Spotsylvania Avenue, Suite 100
Fredericksburg, VA 22408

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Convergys Customer Management Group Inc.
201 East 4th Street
ML 102-1810
Cincinnati, OH 45202

Eugene Pearson
Craftmatic of 10,000 Lakes Inc.
315 Marie Avenue East
West St. Paul, MN 55118

David DuCoin
Creative Marketing Strategies Inc.
15 E Centre Street
Woodbury, NJ 08053

Chris Igglesden
CRM Telemarketing Services Inc.
5 Kodiak Cres Unit 10
Toronto, ON M3J3E5

Dwayne Prifogle
Disney Vacation Development, Inc.
200 Celebration Place
Celebration, FL 34747

Martina Johnson
Edge Teleservices, Inc.
350 West Arden Avenue
Suite 201
Glendale, CA 91203

John Pohl
Encore Telemarketing Services
13700 Olive Blvd
Chesterfield, MO 63017

Equity One, Inc.
301 Lippincott Drive/Suite 100
Marlton, NJ 08053

e-Serve International Limited
Building #24, Nirlon Complex, Off Western Express Highway,
Georgaon (East)
Mumbai Maharashtra, India 400 063

Donna Higgins
Fairfield Resorts, Inc.
5259 Coconut Creek Parkway
Margate, fl 33063

Geeta Alphonso
First Investors Corporation
95 Wall Street
New York, NY 10005

Gurufatha Kaur
First Ring Inc.
22570 Markey Court, Suite 200
Sterling, VA 20166

Frontline Direct, Inc.
3651 FAU Blvd. #400
Boca Rotan, FL 33431

Global Contact Services LLC
101 Martin Drive
Mt Hope, WV 25880

Kriby Shroll
Great Western Bank
35 1st Avenue NE
Watertown, SD 57201

Lisa Contreras
Greater Acceptance Mortgage Corp.
940 Town and Country Road
Orange, CA 92868

Brian Garofalo
Green Tree Servicing LLC
300 Landmark Towers/ 345 St. Peter Street
St. Paul, MN 55102

GTL Limited
Global CMS, Electronic Sadan Nov. IV
T.T.C. Industrial Area MDC Mahape
Navi Mumbai-400 701, INDIA

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H.M.I. Ind. Inc.
6000 Lombardo Ctr.
Seven Hills, OH 44131

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1940 SW Blvd, 2nd Floor, Building A
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PO Box 937
Watertown, SD 57201

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500 West Main Street
Louisville, KY 40202

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100 Brandywine Blvd
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Santo Domingo, DN

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Miami Lakes, FL 33014

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Leawood, KS 66221

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Mitchell, sd 57301

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Belfast, MA 04915

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Des Moines, IA 50321

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Kirkland, WA 98034

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St. Cloud, MN 56303

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Tempe, AZ 85281

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Judith Sorensen
National Foundation for Debt Management
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Clearwater, FL 33760-3758

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ORC ProTel, Inc.
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Clearwater, FL 33761

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Horsham, PA 19044-2308

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South Dakota Automobile Club Inc.
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Sioux Falls, SD 57104

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San Diego, CA 92121

Tecunio Communications Corporation
6931 NW 88th Avenue
Tamarac, FL 33321

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Duluth, MN 55802

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Yorktown Heights, NY 10598-1404

Stuart Discount
Tele-Response Center, Inc.
2824 Cottman Avenue #11
Philadelphia, PA 19149

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Spearfish, SD 57783

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Cincinnati, OH 45202

TPUSA, Inc.
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Salt Lake, UT 84104

TransWorks Information Services Limited
4 1/2 Saki Vihar Road
Levl 4 Block II, Prestige Blue Chip Park, Hosure RD, Bangalore,
Karnataka,560029, India
Mumbai/Maharashtra India 400 072

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Marsha Gabehart
Waddell & Reed, Inc.
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Valerie Svenningsen
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Minneapolis, MN 55401-2110

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San Antonio, TX 78245

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Mr. James M. Cremer
Attorney at Law
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Colleen E. Sevoid
Manager-Regulatory Affairs
Qwest Corporation
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Sioux Falls, SD 57194

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Mr. Richard J. Helsper
Attorney at Law
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100 22nd Avenue, Suite 200
Brookings, SD 57006

Mr. William P. Heaston
General Counsel
PrairieWave
P. O. Box 88835
Sioux Falls, SD 57108-8835

Citizens Telecommunications Company
of Minnesota, Inc.
2378 Wilshire Boulevard
Mound City, MN 55354

Consolidated Telcom
P. O. Box 1077
Dickinson, ND 58601

Farmers Mutual Telephone Company
P. O. Box 368
Bellingham, MN 56212

Dickey Rural Communications, Inc.
Dickey Rural Telephone Coop
P. O. Box 69
Ellendale, ND 58436

Great Plains Communications
1635 Front Street
Blair, NE 68008

Heartland Telecommunications
221 East Hickory Street
Mankato, MN 56002

Hills Telephone Company
P. O. Box 349
Garretson, SD 57030

Northeast Nebraska Telephone Co.
110 East Elk Street
Jackson, NE 68743

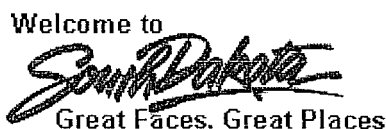
RT Communications, Inc.
P. O. Box 506
Worland, WY 82401

Red River Telecom, Inc.
P. O. Box 136
Abercrombie, ND 58001-0136

Three River Telco
P. O. Box 66
Lynch, NE 68757

Valley Telephone Company
P. O. Box 277
Underwood, MN 56586

West River Telecommunications Coop
P. O. Box 467
Hazen, ND 58545



PUCRULES membership

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dduncan@FZDNLAW.COM	Dennis Duncan
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Terry.Emerson@STATE.SD.US	Terry Emerson
levans@BH-CORP.COM	Linn Evans
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bforman@SBTC.NET	Brenda Forman
DAG@MAGT.COM	David A. Gerdes
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ewa.gromnicka@WP.PL	Ewa Gromnicka
agross@TMINC.COM	Amy Gross
mickg@WESTRIV.COM	Mick Grosz
gary.hanson@STATE.SD.US	Gary Hanson
TIESZENLAW@USA.NET	Tom Harmon
bheaston@PRAIRIEWAVE.COM	Bill Heaston
jerryhei@ITCTEL.COM	Jerry Heiberger
larryhettinger@GOLDENWEST.COM	Larry Hettinger
larryhettinger@MARTIN-GROUP.COM	Larry Hettinger
larry.hettinger@VANTAGEPNT.COM	Larry Hettinger
christine.hibbeler@STATE.SD.US	Christine Hibbeler
mhinzman@BH-CORP.COM	Marlena Hinzman
joann.hohrman@VANTAGEPNT.COM	JoAnn Hohrman
bmugdh@SWIFTEL.NET	Gary Huisken
hunsingerj@MOSS-BARNETT.COM	Jean Hunsinger
biverson@BH-CORP.COM	Brian Iverson
clkatz@RUSHMORE.COM	Carol Katz

GTK@STATESIDE.COM	Keegan, Gerard T
janetkeller@ATT.COM	Janet Keller
RaeAnn.Kelsch@WWIRELESS.COM	Kelsch, RaeAnn
jodi.klemann@STATE.SD.US	Jodi Klemann
KOENECKE@MAGT.COM	Brett Koenecke
bonniek@WESTRIV.COM	Bonnie Krause
gkroell@SANTEL.NET	Gene Kroell
dlaw@SIOUXVALLEY.NET	Denny Law
ELEWIS@WFSS.COM	Beth Lewis
mary_lohnes@MMI.NET	Mary Lohnes
damartin@MIDAMERICAN.COM	Martin, Debra A
pmastel@MCLEODUSA.COM	Pat Mastel
matt@SDLAWFIRM.COM	Matt McCaulley
ShelbyM@ISGCOM.COM	Shelby Michlin
glennm@MWD-INC.COM	Glenn Miller
tmmyers@RWBECK.COM	Terry Myers
Kimberly.Nielsen@ATTWS.COM	Kimberly Nielsen
lrn@CENTRALEC.COM	Loren Noess
judy.page@STATE.SD.US	Judy Page
jpahl@WESTRIVER.COM	Jim Pahl
don.patten@AVERA.ORG	Don Patten
ross.petrick@VANTAGEPNT.COM	Ross Petrick
marsha.pokorny@ILDMAIL.COM	Marsha Pokorny
dpraik@LACAPRA.COM	David Praik
dprazak@OTPCO.COM	Dave Prazak
mjrasher@MSN.COM	Mary Jane Rasher
aremus@BILLSOFT.COM	Aneita Remus
rogie@SVTV.COM	Mark Rogen
Bob.Sahr@STATE.SD.US	Bob Sahr
Sue.Schaefer@STATE.SD.US	Sue Schaefer
joeschuele@MARTIN-GROUP.COM	Joe Schuele
mrgsimon@MREENERGY.COM	Mrg Simon
don.simons@ATTBI.COM	Don Simons
skluzak@ATT.COM	Cory Skluzak
jxsmith@Z-TEL.COM	Smith, Janett
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rlspangler@OTPCO.COM	Ron Spangler
William.Srstka@UJS.STATE.SD.US	W. J. Srstka
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jewilson@MIDAMERICAN.COM	Jim Wilson

*

* Total number of users subscribed to the list: 99

* Total number of local host users on the list: 14

*

Kolbo, Delaine

From: Emerson, Terry
Sent: Monday, July 26, 2004 3:51 PM
To: Kolbo, Delaine
Subject: FW: File: "PUCAGENDAS LIST"

-----Original Message-----

From: L-Soft list server at South Dakota (1.8d)
To: Terry Emerson
Sent: 7/26/2004 3:48 PM
Subject: File: "PUCAGENDAS LIST"

tamie.aberle@MDU.COM	Tamie Aberle
kcallen@VARTEC.NET	Kevin Allen
canderson@PRAIRIEWAVE.COM	Craig anderson
eanderson@SDREA.COM	Ed Anderson
don.ball@MDU.COM	Don Ball
jeff.ball@WWIRELESS.COM	Jeff Ball
bandemer@ITCTEL.COM	Tracy Bandemer
gail.baranko@XCELENERGY.COM	Gail Baranko
tbargar@BILLSOFT.COM	Toby Bargar
kbarker@THEKDWGROUP.COM	Katherine Barker
MBarry@OTPCO.COM	Barry, Melissa
MarleneBennett@MARTIN-GROUP.COM	Marlene Bennett
mbenton@MIDSTATESD.NET	Mark Benton
gjbernard@MTNLAW.COM	Greg Bernard
dblair@EASTRIVER.COOP	David Blair
justin.blaise@STATE.SD.US	Justin Blaise
pam.bonrud@STATE.SD.US	Pam Bonrud
stephanie.bosch@MDU.COM	Stephanie Bosch
rodb@KENNEBECTELEPHONE.COM	Rod Bowar
bradley@MOSS-BARNETT.COM	Mike Bradley
wbrantl@KELLEYDRYE.COM	Winafred Brantl
BBrutlag@OTPCO.COM	Brutlag, Bernadeen
jim.burg@STATE.SD.US	Burg, Jim
jburke@BWRB.COM	John W. Burke
steve.wegman@STATE.SD.US	Joe Camel
disenchanted@CARE2.COM	Terry Caretwo
RodCarlson@MMI.NET	Rod Carlson
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jchristiansen@TELEC-CONSULTING.COM	Judy Christiansen
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BACoughlin@MIDAMERICAN.COM	Coughlin, Barbara A
robertcowan@EMS.ATT.COM	R. Neil Cowan
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llew@DAVIESASSOCIATES.COM	D. Ll. Davies
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JEFFREY.DECKER@NORTHWESTERN.COM	Jeff Decker
carrie.deleon@ASPENPUBLISHERS.COM	Carrie DeLeon
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tina.douglas@STATE.SD.US	Tina Douglas
dduncan@FZDNLAW.COM	Dennis Duncan
Kevin.Erickson@SIEMENS.COM	Kevin E
douge@NVC.NET	Doug Eidahl
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B Forman
Heather Forney
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Rick Freemark
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Darrell H. Gomarko
Deb Gregg
James Groft
Amy Gross
Cindy Grosvenor
Mick Grosz
Bernice Hackett
Rich Hahn
Sherry Hansel
Gary Hanson
Tom Harmon
Pamela Harrington
Bill Heaston
Jerry Heiberger
Larry Hettinger
Larry Hettinger
Jeff Hind
Marlena Hinzman
JoAnn Hohrman
Gary Huisken
Karen M. Huizenga
Brian Iverson
Jeffcoat-Sacco, Illona
Paul Jensen
Dick Johnson
Julie M. Johnson
Philip Josephson
Carol Katz
Janet Keller
Kelsch, RaeAnn
Brenda Kleinjan
Jodi Klemann
Rita Klug
Brett Koenecke
Delaine Kolbo
Kevin Kouba
Bonnie Krause
Gene Kroell
Denny Law
Leach, Matthew
Don Lee
Jon Lehner
Mary Lohnes
Bonnie Lorang
Warren Lotsberg
Al Lundy
Heath Mallory
Martin, Debra A
Tom Marvin
MARUYAMA Masahiro
Pat Mastel
Matt McCaulley
Sarah McCaulley
Douglas Mckillip
Jeff McKinney
Bob Mercer
Diane Merz

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cbwalke@QWEST.COM
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jewilson@MIDAMERICAN.COM

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Doug Morris
Clark Mortensen
Tim Muellenberg
Rita Mulhern
Terry Myers
Terry Netscape
Barb Newman
Loren Noess
Judy Page
Jim Pahl
Ross Petrick
Marsha Pokorny
Dave Prazak
Dianna J. Quaschnick
E Melich at Qwest
Mary Jane Rasher
Peter Rasmusson
Aneita Remus
Carrie Rice
Audrey Ricketts
Brett Ritter
Mark Rogen
Celeste Martinez Roman
Bryan Roth
Bob Sahr
Dave Saville
Sue Schaefer
Bradley Schardin
Cindy Schick
Paula Schneider
Joe Schuele
Debora Schweikart
Dave Semerad
Colleen Sevold
Mrg Simon
Cory Skluzak
Jeff Smith
John J. Smith
Don Snyders
Adam Sokolski
Ron Spangler
W. J. Srstka
Lon Stanton
Jeff Starkman
George Strandell
Karen Strieder
Ryan Taylor
Wade R. Therkildsen
Larry Thompson
Melissa K. Thompson
Tracy Thorne
Keith Tiggelaar
Larry Toll
Stuart Tommerdahl
Susan Travis
Monica Vinluan
Cathy Walker
M. Louise Walters
Justin Weiland
Sarah Welch
Thomas J. Welk
Stuart Wevik
Talbot Wieczorek
Wilcox, James C
Jim Wilson

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mel@TURTLEISLANDCOM.COM Mel Yawakie

*
* Total number of users subscribed to the list: 187
* Total number of local host users on the list: 21
*

Koibo, Delaine

From: Emerson, Terry
Sent: Monday, July 26, 2004 3:52 PM
To: Kolbo, Delaine
Subject: FW: File: "PUCFILINGS LIST"

-----Original Message-----

From: L-Soft list server at South Dakota (1.8d)
To: Terry Emerson
Sent: 7/26/2004 3:48 PM
Subject: File: "PUCFILINGS LIST"

dallen@BILLSOFT.COM	Doug Allen
kcallen@VARTEC.NET	Kevin Allen
canderson@PRAIRIEWAVE.COM	Craig Anderson
eanderson@SDREA.COM	Ed Anderson
jeff.ball@WWIRELESS.COM	Jeff Ball
gail.baranko@XCELENERGY.COM	Gail Baranko
tbargar@BILLSOFT.COM	Toby Bargar
kbarker@THEKDWGROUP.COM	Katherine Barker
MBarry@OTPCO.COM	Barry, Melissa
mbenton@MIDSTATESD.NET	Mark Benton
gjbernard@MTNLAW.COM	Greg Bernard
harlan.best@STATE.SD.US	Harlan Best
sbiegler@BLACKHILLSFIBER.COM	Sonny Biegler
justin.blaise@STATE.SD.US	Justin Blaise
pam.bonrud@STATE.SD.US	Pam Bonrud
stephanie.bosch@MDU.COM	Stephanie Bosch
rodb@KENNEBECTELEPHONE.COM	Rod Bowar
bradley@MOSS-BARNETT.COM	Mike Bradley
wbrantl@KELLEYDRYE.COM	Winafred Brantl
BBrutlag@OTPCO.COM	Brutlag, Bernadeen
jburke@BWRB.COM	John W. Burke
RodCarlson@MMI.NET	Rod Carlson
MICHAEL@ASKTANGENT.COM	Michael Catolico
todd.chambers@CI.PIERRE.SD.US	Todd Chambers
michelle.christensen@VANTAGEPNT.COM	Michelle Christensen jchristiansen@TELEC-
CONSULTING.COM Judy Christiansen	
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richcoit@SDTAONLINE.COM	Rich Coit
dmcollins@MIDAMERICAN.COM	Donna Collins
billc@GOLDENWESTTECHNOLOGIES.COM	Bill Cook
robertcowan@EMS.ATT.COM	R. Neil Cowan
karen.cremer@STATE.SD.US	Karen Cremer
gregdean@SDTAONLINE.COM	Greg Dean
carrie.deleon@ASPENPUBLISHERS.COM	Carrie DeLeon
tina.douglas@STATE.SD.US	Tina Douglas
Kevin.Erickson@SIEMENS.COM	Kevin E
douge@NVC.NET	Doug Eidahl
doug.eidahl@VANTAGEPNT.COM	Doug Eidahl
brent.eilefson@LEONARD.COM	Brent Eilefson
Terry.Emerson@STATE.SD.US	Terry Emerson
levans@BH-CORP.COM	Linn Evans
jessica.fiechtner@STATE.SD.US	Jessica Fiechtner
bforman@SBTC.NET	Brenda Forman
heather.forney@STATE.SD.US	Heather Forney
mfredrich@BLACKHILLSPOWER.COM	Michael J Fredrich
rickf@UNITE LSD.COM	Rick Freemark
leads@WILLIAMSCONSULTINGINC.COM	Rick Fronck
cffulton@VARTEC.NET	Cathy Fulton
DAG@MAGT.COM	David A. Gerdes

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bhackett@MAIL.COM
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ckuismi@OTPCO.COM
dlaw@SIOUXVALLEY.NET
MLeach@OTPCO.COM
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allundysdpr@HOTMAIL.COM
DAMartin@MIDAMERICAN.COM
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maruyama@CRIEPI.DENKEN.OR.JP
matt@SDLAWFIRM.COM
douglas.mckillip@STATE.SD.US
jeff.mckinney@NORTHWESTERN.COM
Bobmercer1@AOL.COM
dmerz@OTTERTAIL.COM
glennm@MWD-INC.COM
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clarkmortensen@GOLDENWEST.COM
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barb.newman@QWEST.COM
Kimberly.Nielsen@ATTWS.COM
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Amy Gross
Mick Grosz
Bernice Hackett
Adrienne Hamilton
Gary Hanson
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Pamela Harrington
Bill Heaston
Jerry Heiberger
Larry Hettinger
Larry Hettinger
Jeff Hind
Marlena Hinzman
JoAnn Hohrman
JoAnn Hohrman
Gary Huisken
Brian Iverson
Frank James
Dick Johnson
Carol Katz
Janet Keller
Kelsch, RaeAnn
Matthew T. Kinney
Jodi Klemann
Brett Koenecke
Delaine Kolbo
Kevin Kouba
Erik Kraai
Bonnie Krause
Gene Kroell
Cindy Kuismi
Denny Law
Leach, Matthew
Don Lee
Jon Lehner
Mary Lohnes
Bonnie Lorang
Al Lundy
Martin, Debra A
Tom Marvin
MARUYAMA Masahiro
Matt McCaulley
Douglas Mckillip
Jeff McKinney
Bob Mercer
Diane Merz
Glenn Miller
Kathy Moller
Clark Mortensen
Terry Myers
Barb Newman
Kimberly Nielsen
Loren Noess
Judy Page
Jim Pahl
Ross Petrick
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Dave Prazak
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Aneita Remus
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Sue Schaefer
Brad Schardin
Cindy Schick
Paula Schneider
Joe Schuele
Dave Semerad
Keith Senger
Tom Simmons
Mrg Simon
Don simons
Cory Skluzak
Jeff Smith
John J. Smith
Don Snyders
Adam Sokolski
Ron Spangler
W. J. Srstka
Lon Stanton
George strandell
Karen Strieder
Valley Telco
Larry Thompson
Melissa K. Thompson
Tracy Thorne
Larry Toll
Stuart Tommerdahl
Deb Toomey
Susan Travis
Dean Uher
Craig Ullom
Gordon Vanauken
Kaye VanderVorst
Brad Vanleur
Monica Vinluan
Cathy Walker
Sarah Welch
Thomas J. Welk
Stuart Wevik
Talbot Wieczorek
Wilcox, James C
Jim Wilson
John Wylie

* Total number of users subscribed to the list: 162

* Total number of local host users on the list: 21

*

RECEIVED

AUG 31 2004

Affidavit of Publication

STATE OF SOUTH DAKOTA)
COUNTY OF LAWRENCE)

SOUTH DAKOTA
UTILITIES COM

Public Utilities
Notice of Public Hearing
Cancellation a

Stewart Huntington of said County and State being first duly sworn, on his oath says: That the BLACK HILLS PIONEER is a legal daily newspaper of general circulation, printed and published in the City of Spearfish, in said County and State by Stewart Huntington, and has been such a newspaper during the times hereinafter mentioned; and that said newspaper has a bonafide circulation of at least 200 copies weekly, and has been published within said County in the English language for at least one year prior to the first publication of the notice herein mentioned, and is printed in whole or in part in an office maintained at the place of publication; and That I, Stewart Huntington, the undersigned, am the Publisher of said newspaper and have personal knowledge of all the facts stated in this affidavit; and that the advertisement headed:

Public Utilities Commission
Notice of Public Hearing to Adopt Rules
Cancellation & Rescheduling "Display Advertisement"

a printed copy of which is hereto attached, was printed and published in said newspaper for 1 successive and consecutive weeks, the first publication being made on the 23rd day of Aug, 2004, and the last publication on the _____ day of _____, that the full amount of fees charged for publishing same, to-wit: The sum of \$ 228.⁰⁰, insures solely to the benefit of the publisher of the BLACK HILLS PIONEER, that no agreement or understanding for a division thereof has been made with any person and that no part thereof has been agreed to be paid to any other person whomsoever.

Stewart Huntington

Subscribed and sworn to before me this 23rd day of Aug, 2004

Keith Johnson

Notary Public, Lawrence County, South Dakota
My commission expires: 10-24-2004

PLEASE NOTICE: A public hearing that was to be held in Rapid City, South Dakota, on August 24, 2004, at 8:30 A.M., has been cancelled and rescheduled for September 20, 2004, at 1:30 P.M. to consider the proposed rules.

20:10:33:1

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a ballot to utility providers to determine which system of electrical backup they prefer in the event of a power outage.

In Section 20:10:35:11, the amendment would require a telephone company to allow Dakota residential telephone subscribers to download updates to their phones every 90 days, instead of every ninety days. This rule would be effective on the first day of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to allow for more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to allow for the Commission's requirements for downloading updates from the internet.

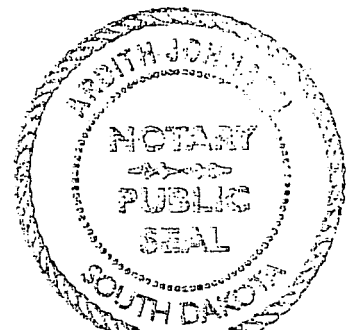
Persons interested in presenting data, opinions, and arguments in support of or in opposition to a proposed rule at the hearing or by sending them to the South Dakota Public Utilities Commission, Pierre, South Dakota 57501-5070. Material sent by mail must be received by the Commission no later than 5:00 p.m. on the day before the hearing will be considered.

After the hearing, the Commission will consider all written comments. The Commission may modify or amend a proposed rule at that time. Notice of the Commission's action will be published in the State Register.

Notice is further given to individuals with disabilities that if they need special arrangements to attend the hearing, they must notify the Public Utilities Commission at least 48 hours before the hearing. Special arrangements must be made. The telephone number for more information is 605-773-3333.

Copies of the proposed rules may be obtained without charge from the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, SD 57501-5070.

The proposed rules may also be found on the Public Utilities Commission website at <http://www.state.sd.us/puc>.



Affidavit of Publication

State of South Dakota

Exhibit "A"

ss

County of Brookings

Katy Huska of said county, first duly sworn, on oath, says: That she is the office clerk of THE BROOKINGS REGISTER, a daily newspaper, printed and published in the City of Brookings, in said County of Brookings, and State of South Dakota; that she has full and personal knowledge of the facts herein stated; that said newspaper is a legal newspaper and has a bona fide circulation of at least two hundred copies of each issue daily; that said newspaper has been published within the said County of Brookings and State of South Dakota, for more than one year prior to the first publication of Exhibit "A," hereto attached and herein mentioned, and was and is printed

SEP 07 2004

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

that the

Display Legal

Brookings and State of South Dakota, for more than one a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit

said newspaper for 1 times, to-wit:

August 23, 2004

said Exhibit "A" inures to the sole benefit for the publishers of said newspaper; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are:

One hundred ninty six dollars and twenty cents \$196.20

Katy Huska

Subscribed and sworn to before me this 24th day of August 2004.

Christina Nelson

Notary Public in and for the County of Brookings, South Dakota. My Commission expires April 27, 2006

Volga
of Your Best

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Bryce Pomrenke, White
Ethan Vander Wal, Bruce (2)
Lucas Quail, White
Trina Moberg, Bruce
Preston Lee, Volga
Senior Collection
Trista Telkamp, Brookings
Natalie Brandt, Elkton
Phillip Mulder, Volga
Tyler Brandriet, Arlington
Kevin Pates, Volga
Jodi Byers, White

COMPUTERS

Beginner Cards
Tara Telkamp, Brookings
Lacey Quail, White
Senior Photographic Series
Susan Gilkerson, Brookings
Jessica Fenske, Arlington
Sarah Fenske, Arlington

GRAPHIC DESIGN

Senior Design Exhibit
Sarah Fenske, Arlington
Ryan Stee, Brookings

CROPS

Junior Crop Plant

Identification
Meghan Hartenhoff, White

Junior Shelled Corn
Justin Haber, White
Austin Vander Wal, Volga
Senior Shelled Corn
Kyle Vander Wal, Volga

ROCKS AND MINERALS

Junior Minerals
Tara Telkamp, Brookings (2)

ELECTRIC

Junior Lighting
Kylie Eckman, Bruce
Colton Eckman, Bruce
Adair Chase, Volga
Deana Van Kooten, Volga
Danielle Van Kooten, Volga
Junior Wiring and Switches
Colton Eckman, Bruce
Donley Skroch, Aurora
Dylan Eckman, Bruce
Lane Weber, Arlington
Senior Wiring and Switches
Denise Apland, Bruce

HORTICULTURE

Beans
Trina Moberg, Bruce
Austin Schmidt, White
Ashton Hanson, Bushnell
Brandi Nissen, Bushnell
Emily Meyer, White
Miranda Ulvestad, Bruce
Heather Ulvestad, Bruce

FOOD PRESERVATION

Frozen Foods
Vanessa Brown, Arlington (2)
Junior Dried Fruit
Vanessa Brown, Arlington (2)
Junior Dried Vegetable
Vanessa Brown, Arlington (2)
Senior Dried Vegetable
Phillip Mulder, Volga (2)
Junior Jam
Trina Moberg, Bruce
Dylan Eckman, Bruce
Vanessa Brown, Arlington (2)

Senior Fun With Dairy Foods
Laura Fredenksen, Elkton
EGGS
Nicole Eggebraaten, Arlington
Dailas Kistler, Brookings
Sarah Fenske, Arlington (2)
Jessica Fenske, Arlington
Meghan Hartenhoff, White
Monica Petersen, White
Aisa Eggebraaten, Arlington
Erick Eggebraaten, Arlington

Senior Fun With Dairy Foods
Laura Fredenksen, Elkton

**Public Utilities Commission
Notice of Public Hearing to Adopt Rules
Cancellation and Rescheduling**

PLEASE NOTICE: A public hearing that was to be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., has been cancelled and rescheduled for Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on September 20, 2004, at 1:30 P.M. to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 30, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address:

rs Hybrids

TOURS

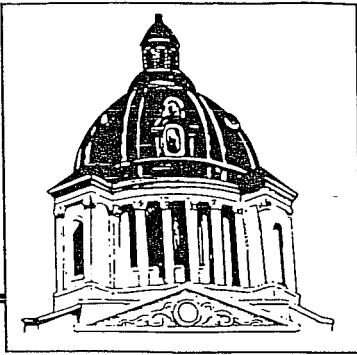
† 24 • 5:30pm-dusk

1. 1 1/2 miles east of Rutland

† 25 • 5:30pm-dusk

1 mile south of Toronto

lunch will be served.



Capital Journal

SEP 07 2004

AFFIDAVIT OF PUBLICATION SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

State of South Dakota, County of Hughes

John H. Sterling of said county, being, first duly sworn, on oath, says: That he is the publisher or an employee of the publisher of the Capital Journal, a daily newspaper published in the City of Pierre in said County of Hughes and State of South Dakota; that he has full and personal knowledge of the facts herein stated, that said newspaper is a legal newspaper as defined in SDCL 17-2-2.1 through 17-2-2.4 inclusive, that said newspaper has been published within the said County of Hughes and State of South Dakota, for at least one year next prior to the first publication of the attached public notice, and that the legal display advertisement headed Public Utilities Commission Notice of Public Hearing to Adopt Rules Cancellation & Rescheduling a printed copy of which, taken from the paper in which the same was published, and which is here-to attached and made a part of this affidavit, was published in said newspaper for one successive week(s) to wit:

<u>August 23</u> 20 <u>04</u>	_____	_____	20_____
_____	20_____	_____	20_____
_____	20_____	_____	20_____
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That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$107.84.

Signed: John H. Sterling

subscribed and sworn to before me this 2 day of September 2004

Maugh Baker

Notary Public in and for the County of Hughes, South Dakota.

My Commission expires 2-19, 2009.

PUBLIC UTILITIES COMMISSION
NOTICE OF PUBLIC HEARING TO ADOPT RULES
CANCELLATION AND RESCHEDULING

PLEASE NOTICE: A public hearing that was to be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 a.m., has been cancelled and rescheduled for Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on September 20, 2004, at 1:30 p.m. to consider the adoption and amendment of proposed rules numbered:

20:10:33:19 and 20:10:35:11

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State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address:
<http://www.state.sd.us/puc>



South Dakota Telecommunications Association
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501
605/224-7629 ■ Fax 605/224-1637 ■ sdtaonline.com

Rural roots, global connections

September 29, 2004

RECEIVED

SEP 29 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Ms. Pamela Bonrud, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Ave.
Pierre, SD 57501

RE: PUC Docket RM04-001, Midcontinent Communications Petition for
Rulemaking (In the Matter of ARSD § 20:10:33:19)

Dear Ms. Bonrud:

In response to the Notice of Hearing issued in the above referenced Docket, the South Dakota Telecommunications Association (“SDTA”) submits the following written comments in order to briefly summarize its position with respect to the proposed amendment of ARSD § 20:10:33:19 which sets forth “auxiliary and battery power requirements” applicable to the provisioning of local exchange telecommunications services.

SDTA would agree with Midcontinent Communications concerning the need for an amendment of the current provisions within ARSD § 20:10:33:19. As SDTA noted at the Commission’s hearing in this matter, the current provisions and, in particular, that sentence of the rule which references the “remote terminating electronics” of a local exchange company has led to some confusion insofar as that specific language may be interpreted to apply to only certain types of technologies. So, at least in this respect, language used in the current rule may be too technology specific.

SDTA does see some need to revise the current provisions of ARSD § 20:10:33:19. We do not, however, believe the general substance or emphasis of the rule should be changed and, accordingly, we do not support the rule revisions proposed by Midcontinent.

In regards to the Midcontinent rule proposal, it would substantially alter the current requirements by switching the emphasis from guaranteeing that all customers will have power backup for a minimum of 8 hours, plus or minus 15 percent, to only guaranteeing service, in the event of AC power outages, during “localized power interruptions.” The Midcontinent proposal would for “localized power interruptions” require telephone providers to maintain “continuous service” to all local residents (establishing a requirement for certain telephone network equipment that extends beyond the current 8 hour requirement). On the other hand, the Midcontinent proposal fails to contain any specifics with regard to power interruptions that are categorized as catastrophic (where

“commercial power is lost to greater than ten percent of the customers served within an exchange”). For “catastrophic power interruptions,” telephony providers would only be subject to a “best efforts” standard.

SDTA does not support either of these changes. SDTA believes the Commission should continue to insist on battery power backup that is consistent with current battery standards in the industry and which will allow for service to be maintained to all subscribers for some reasonable period should AC power not be available. The Midcontinent proposal may fit well within their current system for providing power backup, but in our view, it permits them to rely too heavily on portable generators and would in a very substantial way dilute the current battery backup requirements.

As was pointed out in our comments at the hearing, it is SDTA’s position that any new rule proposal should not only be “technology neutral,” it should also be “competitively neutral.” The SDTA member LECs have complied with the current 8 hour battery backup requirement for many years and do not wish to see that standard lessened for the benefit of competitive carriers. If the standard is lessened for competitive carriers, these carriers will have a cost advantage in the marketplace and perhaps more importantly, from a service quality standard perspective, for competitive reasons, many carriers may be driven to the lesser standard.

At the hearing, SDTA presented its own proposal for revising the current ARSD § 20:10:33:19 provisions. Attached for the Commission’s convenience is another copy of that rule proposal. We believe this proposal addresses the concerns with the current language in ARSD § 20:10:33:19, but at the same time stays true to the intent of that rule which was to establish reasonably reliable backup power standards.

Thank you for this opportunity to submit further comment regarding this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a circular stamp or seal.

Richard D. Coit
SDTA Executive Director

20:10:33:19. Auxiliary and battery power requirements. For local exchange telecommunications service, the power shall be maintained at the customer's premise interface for power outages of up to 8 hours, plus or minus 15 percent at peak traffic load, regardless if the power outage occurs at the customer's premise or at another location. Permanent electrical storage devices, such as batteries, or electrical generating devices, such as generators, may be utilized to meet this requirement. For all electronics that would result in the loss of local exchange telecommunications service for more than 1,500 access lines in the event of a power outage, a permanent electrical storage device and a permanent electrical generation device shall be required to provide adequate power to these electronics for an indefinite period of time. All electrical storage devices and electrical generating devices shall be tested and reported internally on a regular basis, not to exceed once a year.

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

ATTORNEYS AT LAW

WYNN A. GUNDERSON
J. CRISMAN PALMER
G. VERNE GOODSSELL
JAMES S. NELSON
DANIEL E. ASHMORE
TERENCE R. QUINN
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
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ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, MONTANA, WYOMING & MINNESOTA

September 30, 2004

VIA FAX 1-605-773-3809

Pamela Bonrud
Executive Director
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

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OCT 04 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FAX Received SEP 30 2004

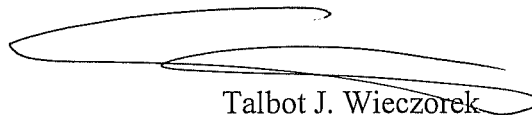
**RE: PUC Docket RM04-001, Midcontinent Communications Petition for
Rulemaking (In the Matter of ARSD § 20:10:33:19)
WWC License LLC GPGN File No. 5925.030369**

Dear Ms. Bonrud:

Enclosed please find WWC's comments on the above-entitled matter. The original and ten copies have been sent to you by U.S. Mail.

If you have any questions, please call me.

Sincerely,



Talbot J. Wiczorek

TJW:klw
Enclosure

c: Richard Coit via fax and U.S. Mail
Jim Cremer via fax and U.S. Mail
Brett Koenecke via fax and U.S. Mail
Clients

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

ATTORNEYS AT LAW

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SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, MONTANA, WYOMING & MINNESOTA

September 30, 2004

VIA FAX: 1-605-773-3809

Pamela Bonrud
Executive Director
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

FAX Received SEP 30 2004

RECEIVED
OCT 04 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: PUC Docket RM04-001, Midcontinent Communications Petition for
Rulemaking (In the Matter of ARSD § 20:10:33:19)
WWC License LLC GPGN File No. 5925.030369

Dear Ms. Bonrud:

WWC License LLC, a wholly owned subsidiary of Western Wireless Corporation, doing business as CellularOne in South Dakota, (hereinafter "Western Wireless"), submits this letter to serve as comments on the proposed amendments to ARSD § 20:10:33:19.

Western Wireless has had the opportunity to review the comments filed by Verizon Wireless. Western Wireless joins in the comments submitted by Verizon Wireless and agrees as discussed at the bottom of page two and the top of page three of Verizon Wireless' comments, that a legitimate issue exists as to whether this Commission has jurisdiction to impose such a requirement on a wireless provider. Even if one were to assume the Commission does have jurisdiction of this matter, the proposed rule should be redrafted to be limited to only wireless companies' mobile switching centers.

Western Wireless' primary concern with the regulation as proposed arises out of the last sentence of the proposal. As you know, the last sentence sets forth as follows: "All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule." As written, this sentence is vague and confusing in that it appears to apply to arguably only towers, but may also apply to cell sites, locations where Western Wireless may have an antenna.

In any case, even if the proposal applies to towers or to both types of situations, Western Wireless believes the requirement to be overly broad. First, it appears the purpose of the rule is to provide for power to a switching office. To make this rule consistent and remove any confusion over how this rule then applies to wireless or cellular, Western Wireless recommends that in place of "tower electronics," the Commission substitute "mobile switching center." This

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

Pam Bonrud
September 30, 2004
Page 2

would restrict the power obligations to wireless' or cellular's actual switching locations and not put these types of obligations on wireless towers or sites.

Currently, Western Wireless provides battery backup and generators at its switches that meet the requirements of this regulation. Western Wireless does provide battery backup at its tower and site locations, but requiring identical backup to switches at every tower and site would be unduly expensive and beyond the purpose of the regulation.

If you have any questions or need any further information regarding the technical aspects and impacts of this rule, please let me know. Western Wireless stands ready to provide the Commission with assistance on any questions it may have on the impact of this proposed change.

Sincerely,

A handwritten signature in black ink, appearing to read 'Talbot J. Wieczorek', with a long, sweeping underline that extends to the right.

Talbot J. Wieczorek

TJW:klw

c: Richard Coit via fax: 1-605-224-1637
James Cremer via fax: 1-605-225-2497
Brett Koenecke via fax 1-605-224-6289
Client

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

ATTORNEYS AT LAW

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ATTORNEYS LICENSED TO PRACTICE IN
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COLORADO, MONTANA, WYOMING & MINNESOTA

FAX Received SEP 30 2004

September 30, 2004

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OCT 01 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

VIA FAX 1-605-773-3809

Pamela Bonrud
Executive Director
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

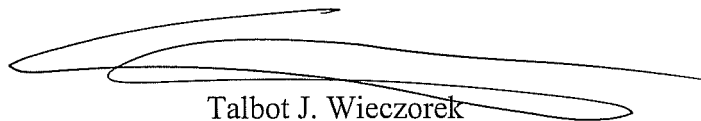
RE: PUC Docket RM04-001, Midcontinent Communications Petition for
Rulemaking (In the Matter of ARSD § 20:10:33:19)
RCC Minnesota, Inc. GPGN File No. 7401.040099

Dear Ms. Bonrud:

Enclosed please find the original and ten copies of RCC Minnesota's comments in the above-entitled matter. The original and ten copies have been sent to you by U.S. Mail.

If you have any questions, please call me.

Sincerely,



Talbot J. Wiczorek

TJW:klw
Enclosure

c: Richard Coit via fax and U.S. Mail
Ben Dickens via fax and U.S. Mail
Darla Pollman Rogers via fax and U.S. Mail
Jim Cremer via fax and U.S. Mail
Brett Koenecke via fax and U.S. Mail
Clients

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

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SOUTH DAKOTA, NORTH DAKOTA, NEBRASKA
COLORADO, MONTANA, WYOMING & MINNESOTA

September 30, 2004

VIA FAX: 1-605-773-3809

Pamela Bonrud
Executive Director
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

RECEIVED

OCT 01 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FAX Received SEP 30 2004

RE: PUC Docket RM04-001, Midcontinent Communications Petition for
Rulemaking (In the Matter of ARSD § 20:10:33:19)
RCC Minnesota, Inc. GPGN File No. 7401.040099

Dear Ms. Bonrud:

On behalf of RCC Minnesota, Inc. and Wireless Alliance, L.L.C., both doing business as Unicel, (hereinafter "RCC"), this letter is to serve as comments to the proposed changes to ARSD § 20:10:33:19.

RCC maintains a high quality service in South Dakota and desires to provide all necessary backup to ensure services provided to its consumers continue during any power outage. Still, the current proposed amendments to ARSD § 20:10:33:19 do not take into account the existing wireless architecture based on RCC's experience. The proposed new sentence at the end of that regulation states: "All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule." By including all wireless or cellular tower electronics, the rule becomes overly broad and reaches beyond what is being required of land line companies.

As way of background, wireless systems generally have critical sites and secondary sites and switches. Currently, RCC's switches have eight (8) hours of backup and a diesel generator on site. Thus, RCC's switches meet the rule as proposed. Therefore, if the last sentence to the proposed rule would be changed to state: "All wireless or cellular switches shall be considered a tandem switching office for the applicability of this rule," RCC would not have an objection. However, the rule as currently proposed appears to apply to every cellular tower and, perhaps, site. Most of RCC's towers and sites have six (6) hours of backup. Critical locations also have a generator on site.

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

Pam Bonrud
September 30, 2004
Page 2

It must be remembered that wireless consumers are often served by more than one site or tower. This means that putting increased power restrictions on every site or tower becomes impractical and unnecessary. In RCC's history in the 14 states where it operates, it has never experienced a system-wide outage. For those towers or sites that only have six (6) hours of backup and no generator on site, RCC keeps a number of portable generators in the area that can be moved to the location so the cell site is able to operate continuously until electricity is restored. Of course, the fact that the switches have an onsite generator, as do primary towers, generators would not have to be transported to those locations.

Finally, the rule, as written, does not take into consideration the technical and functional differences that exist between a land line provider and a wireless provider. While it would make sense that all switches would be treated the same, the delivery systems to those switches are in fact being treated differently under the rule as currently proposed. For example, RCC has both towers and cell sites. A cell site might be an antenna on a building but it is not a tower location. The rule would appear to apply to a cell site that is being installed on a building simply to fill a coverage hole in a community. Both the sites and the towers pick up calls and route them to a switch. The towers and the sites are essentially acting the same as the phone lines from someone's house to a switch. If a disruption occurs of a land line, such as what is currently occurring in Sioux Falls, South Dakota, a land line provider may take several days to provide service. Conversely, disruption in power to an antenna or a tower will not totally disrupt service, especially in the majority of situations where consumers have use of multiple towers.

Again, RCC does not object to switches meeting these power backup rules. RCC does contest the fact that the rule as written appears to apply to every antenna it has installed. Placing the cost of providing these types of power generation or battery backup at every site or tower will unnecessarily increase the cost of expansion of services. If it is the Commission's desire to set certain battery backup standards for wireless sites and wireless towers, it would be more appropriate to do that in a different rule specific to those types of operations and design the rule in such a way so as not to discourage the placement of antennas or towers, or increase the costs unnecessarily.

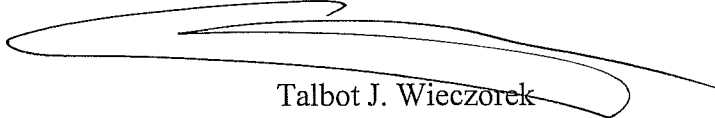
RCC recognizes that the proposed rule is an attempt to ensure continuous service in a case of a localized power outage. Still, RCC cannot reconcile how a land line company can be deemed to be maintaining continuous service when a tree may fall and knock out a line or where lines may be cut, but if a power outage puts down one tower of a wireless provider, knocking out the same amount of consumer's homes, the wireless provider would be deemed in violation of the rule. This is especially troublesome given the fact that the consumers would still be able to use their cell phone off of other towers or while traveling.

GUNDERSON, PALMER, GOODSSELL & NELSON, LLP

Pam Bonrud
September 30, 2004
Page 3

RCC would request that the last sentence to the proposed regulation be stricken or, limited to wireless or cellular switches. RCC stands ready to provide additional information concerning these issues should the Commission have any questions.

Sincerely,



Talbot J. Wiczorek

TJW:klw

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September 30, 2004

Robert Sahr, Chairman
Gary Hanson, Vice-Chairman
James Burg, Commissioner
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500 E. Capitol Avenue
Pierre, South Dakota 57501-5070

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OCT 01 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: Comments on RM04-001: Draft Rule 20:10:33:19
Service Standards for Telecommunications Companies

FAX Received SEP 30 2004

Dear Chairman Sahr, Vice-Chairman Hanson and Commissioner Burg:

Verizon Wireless appreciates the opportunity to submit comments on the Draft Rule. While we understand the Commission's interest in the performance of telecommunications networks, we must respectfully oppose the Rule to the extent it would impose network standards and obligations on wireless carriers.

The proposed regulation would inappropriately apply traditional telephone company service standards for auxiliary battery power requirements to wireless carriers' networks. The proposed regulation is unnecessary, because the wireless industry already operates in a naturally responsive and highly innovative marketplace, and has a proven track record of planning for and anticipating potential service interruptions. Furthermore, regulation of wireless service quality is an area specifically reserved to federal regulation and should therefore not be undertaken by this Commission.

Over the past two decades the wireless industry has constructed and operated wireless networks in a competitive marketplace and has faced floods, fires, snow and ice storms, blackouts and many other national and natural disasters that threatened the operation of these networks. Wireless carriers have enlisted the assistance of their vendors, other telecommunications carriers and disaster planning agencies to develop and refine plans, procedures and products on national and/or regional scales to ensure the continued performance of their networks in times of emergency. Network reliability can also be a source of competitive differentiation between wireless carriers. Wireless carriers have every incentive to design their networks to be able to provide uninterrupted service even under the most trying situations.

Verizon Wireless' own national network performance standards call for each of its cell sites to be equipped with battery backup capable of eight hours of continued operation in the event of loss of commercial power. Each cell site is also equipped with connections for mobile generators. We plan for generator backup to the batteries in all possible cases unless prevented by the site's owner or by local zoning or noise ordinances. Our mobile switching offices are equipped with backup diesel generators. All facilities are tested and maintained regularly. We have invested in mobile Cells on Wheels (COWs) and Cells on Light Trucks (COLTS) to enable us to deploy additional wireless network capabilities quickly in critical areas. We have plans to keep our networks operating in many types of emergencies, and are constantly working to improve reliability even more.

Our competitively-driven, national operational performance standards, not state public utility regulations, ensured that Verizon Wireless' network performed well during the record breaking hurricanes that hit Florida, Alabama and Mississippi. We were able to maintain most sites in operation despite loss of electric utility service because of the backup batteries and generators that we had installed. When a few sites lost power they did so when it became too dangerous for employees to refuel generators due to downed power lines and trees. Regulations such as the Commission's proposed Draft Rule would not have kept these sites on the air.

The Draft Rule would inappropriately graft landline concepts onto the very different wireless industry. For example, it treats wireless tower and antenna sites the same as a telephone company's tandem switching office. This rule would require each cell site to have permanent auxiliary power or a connection to mobile power source within four hours. Yet cell sites are located throughout the state in areas much more remote and inhospitable than are telephone company tandem switching offices, areas that may be inaccessible or possibly hazardous to get to in some emergencies.

Moreover, the proposed power interruption triggers would apply when power was lost to greater than "ten percent of the customers served within an exchange." However, wireless providers' service area boundaries are not measured within telephone "exchanges." Wireless carriers are licensed by the Federal Communications Commission to serve discrete geographic areas defined by the FCC that do not track state-determined exchange boundaries for landline telephone companies. The Draft Rule thus cannot be feasibly applied to wireless companies.

The draft rule is also outside of the Commission's jurisdiction because the regulation of mobile wireless networks is within the exclusive authority of the FCC. The longstanding federal regulatory framework for the wireless industry, as well as Section 332 of the Communications Act, 47 U.S.C. 332, prohibit states from regulating the service quality of wireless networks. Specifically, states are preempted from establishing entry criteria or from imposing coverage or other quality of service standards upon wireless carriers.

Courts have held that claims implicating wireless service quality were preempted under Section 332.¹

When the wireless industry began to develop in the early 1980s, the FCC asserted the sweeping authority over radio services that Congress had granted it, and preempted state regulation of wireless technical service and performance standards. Because “state and local regulations might conflict with and thereby frustrate” the federal goal of consistent nationwide regulation, the FCC asserted “federal primacy over the areas of technical standards and competitive market structure for cellular service.” Under this exclusive authority, the FCC issued technical and network standards for wireless service, designed to ensure “signal quality and other quality aspects of system performance.” The FCC made it clear that there was no room for state-imposed technical requirements for network performance: “It is imperative that no additional requirements be imposed by the states which could conflict with our standards and frustrate the federal scheme for the provision of nationwide cellular service.”² The FCC has not deviated from its decision that preemptive federal network quality rules, not potentially conflicting state-by-state rules, best serve the public interest.

Moreover, the entire telecommunications industry is constantly investigating ways in which to improve network reliability. Under the auspices of the Network Reliability and Information Council, a federal advisory committee composed of senior officials from many wireline, wireless, internet, equipment and other companies, and assisted by FCC staff, the telecommunications industry has adopted literally hundreds of industry “Best Practices” to improve the reliability of telecommunications networks.³ The current NRIC is studying what additional or changed Best Practices should be adopted, and the recent experience in the Southeast will lead to even greater focus by the industry on ensuring that customers have the most reliable service possible. These Best Practices have the benefit of being national and thus consistent across the industry. State-specific regulations could impede these national efforts by requiring conflicting practices.

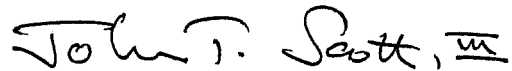
¹ In *Bastien v. AT & T Wireless Services*, 205 F 3rd 983 (7th Cir. 2000), for example, the plaintiff claimed that the wireless carrier was providing insufficient coverage and that the company had “signed up subscribers without first building the cellular towers and other infrastructure necessary to provide reliable cellular connections.” (Id. at 985). The Seventh Circuit found that the FCC alone had jurisdiction over CMRS service quality and entry, noting that “[t]he statute makes the FCC responsible for determining the number, placement and operation of the cellular towers and other infrastructure,” and that “Bastien’s complaint would directly alter the federal regulation of tower construction, location, coverage, quality of service and hence rates for service.” (Id. at 989, emphasis added). The court concluded: “Bastien’s complaint, although fashioned in terms of state law actions, actually challenges the rates and levels of service offered by AT&T Wireless, an area specifically reserved to federal regulation.” (Id. at 990).

² *Cellular Communications Systems*, 86 FCC 2d 469 at paras. 79-82; *on reconsideration*, 89 FCC 58, at paras. 81-84.

³ Detailed information about the NRIC is available at its website, www.nric.org.

For the reasons described above Verizon Wireless respectfully opposes the application of Draft Rule 20:10:33:19 Service Standards for Telecommunications Companies to wireless carriers. Attached is a mark-up of the proposed rule. We appreciate this Commission's support of the continued development of wireless infrastructure in the State and welcome the opportunity to discuss any concerns the Commission may have.

Respectfully,

A handwritten signature in black ink that reads "John T. Scott, III". The signature is written in a cursive style with a horizontal line under the "III".

John T. Scott, III

cc: Ms. Pam Bonrud, Executive Director
South Dakota Public Utilities Commission

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony

providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions.

Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The

2

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. ~~All wireless or cellular tower electronics shall be considered a tandem switching~~

~~office for the applicability of this rule.~~ Providers of commercial mobile radio services as defined and regulated by the Federal Communications Commission are not subject to this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

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SEP 30 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Pam Bonrud
Executive Secretary
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

RE: Written Comments on Proposed Amendments to ARSD 20:10:33:19
Our file: 0053

Dear Pam:

Please accept this letter on behalf of Midcontinent Communications as written comments offered in further support of amendments to the power supply backup rule (ARSD 20:10:33:19). Midcontinent will state for the record once again that the revisions to the Midcontinent Rule made by the LRC upon review of the draft are acceptable. Midcontinent would also request an opportunity to address the Commission regarding a final proposal on the rules.

Attached hereto are copies of the Rule's counterparts in states surrounding South Dakota. As one can see the majority view point is that telephone service providers are allowed (in Minnesota, Iowa, Nebraska, and North Dakota) to determine for themselves what system of power backup redundancy is appropriate, given the customer demographics, age and type of physical plant, electrical service provider, or any other of a myriad of considerations. Midcontinent urges that the Commission set a rule which provides that remote terminating or "customer end" electronics be backed up with a power source determined by the telephone provider.

If the Commission determines that it is important to provide a structure which sets forth a particular style of providing backup electrical power, then it seems to clear to Midcontinent that the Commission will have adopted a rule which requires revision on a revolving basis. The varied manners in which services are delivered will dictate that such a rule be revised in the future.

However, should the Commission decide to develop a rule which allows a telephone service provider to select, then the Commission will have developed a rule which meets the customer's requirements, gives the Commission authority to investigate failures, if any, to meet the customer's requirements and allows telephone service providers to use their ingenuity to find the most economical way to meet all those interests.

We have appended two bulletins from the USDA's RUS Telecom web site which appear to address the subject area. It appears that the RUS rules contemplate eight hours of backup power which period can be shortened to three hours where generators are used.

It is important to underscore the Midcontinent experience. I have attached to this letter as Exhibit C a copy of the Midcontinent Operating System Guidelines which provide the road map for Midcontinent's use of generators to assure that Midcontinent's system is "always on." As you can see it is a detailed system which provides that generators be dispatched and serviced on a timely basis. As noted at the hearing, Midcontinent has been using such a system for some period of time with no problems of note.

Regarding the SDTA sponsored rule draft, Midcontinent would reiterate three points. 1) Its opposition to rule making based on financing rules in place set by a Federal agency; 2) Its use of eight hours of backup time; and 3) Its references to "permanent."

Rural telcos enjoy an ability to borrow money at what is believed to be preferential rates from the Rural Development Authority, a division of the United States Department of Agriculture. The rules associated with borrowing that money are also applicable to rural telco systems based on their access to those funds.

Midcontinent is unable to access those funds for a variety of reasons. Nor are several other South Dakota telcos. For a variety of reasons Midcontinent would caution against using RUS rules as the basis for statewide rules upon the same subject.

Midcontinent also argues against adoption of an eight hour standard for response to loss of commercial power. Midcontinent believes, as shown by the system it has put in place that the customer is and should be able to expect that his phone will remain on duty during instances of localized power interruption. That expectation should be realized for those localized power interruptions whether they are one minute, one hour, or one day.

Finally, the draft advanced by SDTA makes reference to "permanent" in several instances. Midcontinent reflects upon the matter and thinks that "permanent" is not the best modifier to define the various installations and applications of capital, manpower, and institutional vigor which might be required by such a rule.

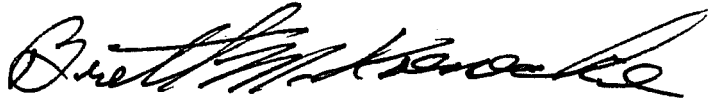
September 30, 2004

Page 3

Midcontinent appreciates the Commission and Staff interest in this matter. We would be happy to answer any questions arising from these comments.

Very truly yours.

MAY, ADAM, GERDES & THOMPSON LLP

A handwritten signature in black ink, appearing to read "Brett M. Koenecke". The signature is fluid and cursive, with a large initial "B" and a long, sweeping underline.

BRETT M. KOENECKE

BMK:njh

Enclosures

cc: Rich Coit
Tom Simmons
Karen Cremer

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Electrification Administration

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SEP 30 2004

BULLETIN 1751E-302

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

SUBJECT: Power Requirements for Digital Central Office Equipment

To: All Telephone Borrowers
REA Telephone Staff

EFFECTIVE DATE: Date of Approval

EXPIRATION DATE: Three years from effective date

OFFICE OF PRIMARY INTEREST: Central Office Equipment Branch,
Telecommunications Standards Division

PREVIOUS INSTRUCTIONS: This bulletin replaces REA
Telecommunications Engineering & Construction Manual (TE&CM)
Section 302, Power Requirements for Community Central Office
Equipment, Issue No. 6, dated April 1989.

FILING INSTRUCTIONS: Discard REA Telecommunications Engineering
& Constructions Manual (TE&CM) 302, Power Requirements for
Digital Central Office Equipment, Issue 6, dated April 1989, and
replace it with this bulletin. File with 7 CFR 1751 and on
REANET.

PURPOSE: This bulletin provides REA borrowers, and other
interested parties with information concerning power requirements
for digital central office equipment.

James B. Huff Sr.

10/15/93

Administrator

Date

TABLE OF CONTENTS

1.	GENERAL.....	4
2.	BASIS FOR CALCULATIONS.....	4
3.	CALCULATIONS.....	6

FIGURE	1	-	NORTHERN TELECOM, DMS-100.....	8
FIGURE	1.1	-	NORTHERN TELECOM DMS-100 (EXAMPLE).....	9
FIGURE	1.2	-	NORTHERN TELECOM DMS-100.....	10
FIGURE	1.3	-	NORTHERN TELECOM DMS-100 (EXAMPLE).....	11
FIGURE	1.4	-	NORTHERN TELECOM DMS-10 400 SERIES.....	12
FIGURE	1.5	-	NORTHERN TELECOM DMS-10 400 SERIES (EXAMPLE).....	13
FIGURE	1.6	-	NORTHERN TELECOM DMS-10 400 SERIES.....	14
FIGURE	2	-	SIEMENS STROMBERG-CARLSON DCO DCO-E/DCO-SE.....	16
FIGURE	2.1	-	SIEMENS STROMBERG-CARLSON DCO DCO-E/DCO-SE.....	19
FIGURE	3	-	REDCOM MDX.....	22
FIGURE	4	-	AT&T 5ESS SWITCH.....	23
FIGURE	4.1	-	AT&T 5ESS SWITCH (EXAMPLE).....	25
FIGURE	5	-	MITEL GX5000.....	27
FIGURE	5.1	-	MITEL GX5000 (EXAMPLE).....	28
FIGURE	6	-	TRANSMISSION ELECTRONICS CURRENT DRAIN.....	29
FIGURE	7	-	ESTIMATING TELEPHONE BATTERY SIZES.....	30
FIGURE	8	-	CHARGER CAPACITY.....	31

INDEX:

Power Requirements For Digital Central Office Equipment

ABBREVIATIONS

AC Alternating Current
 AH Ampere Hour
 AM Administrative Module
 AMAF Automated Message Accounting Frame
 BHA Busy Hour Attempts
 BMC Billing Media Converter
 BTU British Thermal Unit
 CC Common Control
 CCS Hundred Call Seconds
 CM Communication Module
 CMF Control and Maintenance Frame
 COE Central Office Equipment
 CPU Central Processing Unit
 CUA Circuit Unit Assembly
 DAT Digital Analog Trunk
 DC Direct Current
 dc-ac direct current - alternating current
 dc-dc direct current - direct current
 DCI Digital Carrier Interface
 DCM Digital Carrier Module
 DCO-E Digital Central Office Exchange
 DCS-SE Digital Central Office Small Exchange
 DCTU Digital Carrier Trunk Unit
 DLTU Digital Line & Trunk Unit
 DTC Digital Trunk Controller
 DTMF Dual - Tone Multifunction
 GDSU Global Digital Service Unit
 GPIO General Purpose Input Output
 LCE Line Concentrating Equipment
 LCE Line Concentrator Equipment
 LGC Line Group Controller
 LLS Local Line Switch
 LTF Line Trunk Frame
 LU Line Unit
 MDX Modular Digital Exchange
 MMSU Modular Metallic Service Unit
 MSU Modular Shelf Unit
 MTM Maintenance Trunk Module
 OPM Outside Plant Module
 OPSM Outside Plant Subscriber Module
 P.E. Peripheral Equipment
 PCCM Power Cooling Control Module
 PDC Power Distribution Center
 PWBA Printed Wire Board Assembly
 RLCM Remote Line Concentrator Module
 RLG Remote Line Group
 RSLE Remote Line Subscriber Equipment
 RSLM Remote Subscriber Line Module
 SCM Subscriber Carrier Module
 SLC Subscriber Loop Carrier
 T&M Trunk and Maintenance
 TM Trunk Module
 TMF Toll Multifunction
 TU Trunk Unit
 v volts

1. GENERAL

1.1 This bulletin is intended to provide REA borrowers, consulting engineers, contractors and other interested parties with technical information for use in the design and construction of REA borrowers' telephone systems. It discusses, in particular, the methods used in calculating the power requirements for central offices. It provides means to calculate the required capacities of the storage batteries and charging equipment for particular applications.

1.2 This bulletin replaces REA TE&CM 302, Power Requirements for Digital Central Office Equipment, Issue No. 6, dated April 1989. This bulletin provides power calculation methods for various digital, stored program controlled central office equipment.

1.3 General specifications governing storage battery and charging equipment for proposed Central Office Equipment (COE) are covered in Items 12.1 and 12.2, Part III, of Bulletin 1753E-001 (Form 522), "REA General Specification for Digital, Stored Program Controlled Central Office Equipment." Based on these general specifications, determination of the required capacities of battery and charger is made by the manufacturer.

2. BASIS FOR CALCULATIONS

2.1 Charging equipment furnished with a central office should have sufficient capacity to supply the dc power necessary for the satisfactory operation of the office during the busy hour. This includes the dc requirements for carrier, loop extenders, voice frequency repeaters, and dc-dc converters or dc-ac inverters to operate input/output devices.

2.1.1 Determination of the requirements for emergency generating and charging equipment is covered in Bulletin 1751E-320, "Emergency Generating and Charging Equipment." A suggested method of charger size computation is provided in Figure 8.

2.2 Charging equipment for digital central offices should be provided on one of the following bases:

- (a) Two chargers either of which is capable of carrying the full office load; or
- (b) Three chargers each of which is capable of carrying half the office load.

Arrangement (a) may be used in any central office power system. Arrangement (b) may offer potential cost savings when applied to power requirements in relatively large digital, stored program controlled offices.

2.3 Storage Battery

2.3.1 The storage battery furnished with a central office should have sufficient capacity to supply the dc power necessary to sustain satisfactory operation of the exchange for the period specified.

Specific REA minimum requirements are in 7 CFR 1755.522, which is also contained in Part III of REA Bulletin 1753E-001 (Form 522). Appropriate allowances should be included for any equipment which is normally ac operated but arranged for dc operation in case of an ac failure. See paragraph 1.3 of this bulletin for location of specific requirements in central office equipment specifications.

2.3.2 The minimum usable voltage to be delivered to the central office equipment during battery discharge should be determined using COE manufacturer's design criteria. When power flows from the battery through the power board to the equipment, a voltage drop (IR loss) is experienced as a result of the resistance of the current carrying conductors. In many cases equipment design is based on 44 volts being available at the power entry to the bay. Performance of the digital COE at voltages less than 44 volts becomes unpredictable. For effective design, voltage drop from the source to the equipment bay is considered by allocation as follows:

Battery to Power Board	0.5
Power Board to Equipment Bay	0.5
Minimum Equipment Voltage	<u>44.0</u>
Total	45V dc - 45.0 Vdc

In the case of a 24-cell battery $(45/24) = 1.88$ volts per cell becomes the minimum operating voltage.

2.3.3 The computation of battery size to meet the site power requirement is described in Figure 7 - Estimating Telephone Battery Sizes. This method permits computation with differing numbers of hours of reserve and numbers of cells in the battery string. The computation is applicable to lead-acid batteries, lead antimony, or lead-calcium batteries (see manufacturer's data for capacity, dimensions, etc.).

2.3.4 REA recommends that the battery provided should have the capacity to maintain the central office load for a period of 8 hours. Systems that are equipped with emergency generators are allowed to reduce the 8 hours to a 3-hour reserve time.

2.3.5 Determination of battery capacity to be supplied should be based on power outages experienced at the site and on the evaluation of the future performance of the ac power system. Another consideration is the size of the dc load to be supplied. Small electromechanical switching systems have a limited amount of fixed power consuming devices, while a large part of system devices only require power when in use. As a result battery capacity determinations were made assuming busy hour switching activity. The telecommunications industry considers 8 busy hour battery capacity appropriate for most small installations. The expectation of 8 consecutive busy hours of usage following a power interruption was negligible, resulting in battery power being usable for longer than the 8-hour period. Power consumption in digital switching equipment is almost constant, whether or not calls are being processed. In addition, the total power consumed by digital switches is greater than the electromechanical systems. The concept of "busy hour drain" has lost its impact in digital offices where the operating drain represents the constant load. The solution most often used is to provide an emergency generator to supply power on a long-term basis and to install a battery with 3 hours capacity.

3. CALCULATIONS

3.1 The following sample calculations describe the suggested procedure to determine the power requirements for digital, stored program controlled central office equipment. Sample calculations are included for the following switching equipment types:

<u>Manufacturer</u>	<u>System Designation</u>
Figure 1 - Northern Telecom	DMS-100, DMS-10
Figure 2 - Siemens Stromberg-Carlson	DCO
Figure 3 - Redcom	MDX
Figure 4 - AT&T	5 ESS
Figure 5 - Mitel	GX5000

3.2 Figure 6 lists various power requirements for loop extenders, voice frequency repeaters, carrier equipment and other equipment.

3.3 Figure 7 illustrates the method used in determining the capacity of a storage battery required for a particular application. This figure also illustrates, in Example 2, a method for calculating the ampere-hour reserve of existing batteries when the current requirement of the central office equipment is changed as a result of equipment additions or higher than anticipated calling rates, etc.

3.4 Figure 8 illustrates the suggested method used in determining charger capacity required for a particular application. If 110 percent of the rated output of the charger is equal to or greater than the calculated charger dc current requirement, the charger is considered as satisfactorily meeting the specification requirements. Three suggested solutions in terms of the number of chargers and their capacity are included.

3.5 In some cases specialized equipment requires power at a voltage different from the -48V dc central office battery. Dc-dc converters can be supplied at $\pm 24V$ dc, $\pm 48V$ dc, $\pm 130V$ dc and other values. These other voltages are used to supply radio and carrier equipment operated at -24 volts, coin collect circuits at ± 130 volts and other equipment. The power required by the dc-dc converters has to be included in the total load to be carried by the central office dc power system.

3.6 It should be kept in mind that the calculation methods shown in this section are to provide estimates only. Engineering judgment has to be used for each individual application. It is, therefore, recommended that the manufacturer of the system be consulted for specific applications.

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

UNITED STATES DEPARTMENT OF AGRICULTURE
Rural Electrification Administration

BULLETIN 1751E-320

SUBJECT: Emergency Generating and Charging Equipment

TO: All Telephone Borrowers
REA Telephone Staff

EFFECTIVE DATE: Date of Approval

EXPIRATION DATE: Three years from effective date.

OFFICE OF PRIMARY INTEREST: Central Office Equipment Branch,
Telecommunications Standards Division

PREVIOUS INSTRUCTIONS: This bulletin replaces REA
Telecommunications Engineering & Construction Manual (TE&CM)
Section 320, Emergency Generating And Charging Equipment, Issue 5,
dated June 1990.

FILING INSTRUCTIONS: Discard REA Telecommunications Engineering &
Constructions Manual (TE&CM) Section 320, Emergency Generating and
Charging Equipment, Issue 5, dated June 1990, and replace it with
this bulletin.

PURPOSE: This bulletin provides REA borrowers and other interested
parties with information concerning emergency generator and charger
equipment.

James B. Huff, Sr.

07/14/93

Administrator

Date

TABLE OF CONTENTS

1. GENERAL	3
2. GENERAL GENERATING EQUIPMENT NEED	3
3. ADVANTAGES	4
4. TYPES OF ENGINE GENERATOR EQUIPMENT	5
5. FUEL CONSIDERATIONS	5
6. CAPACITIES	6
7. APPLICATION	7
8. INSTALLATION	8
9. GENERAL SPECIFICATIONS	9
10. RECOMMENDED FEATURES	10

INDEX:

Emergency Generator And Charging Equipment

ABBREVIATIONS

BTU British Thermal Unit
COE Central Office Equipment
LP Liquefied Petroleum

1. GENERAL

1.1 This bulletin provides REA borrowers and other interested parties with a guide in selecting suitable emergency generating and charging equipment. Also included is a discussion on the economic benefits obtained through longer subscriber loops by stabilizing the central office voltage.

1.2 Storage batteries have customarily been used as a source of reserve power to maintain uninterrupted operation of central office facilities in case of failure of the commercial source of power. The capacities of such batteries are normally chosen so that they will sustain operation of the central office under busy hour conditions for a period of 8 hours as specified in the Central Office Equipment (COE) contract to a minimum voltage as specified by the central office equipment supplier, and in Bulletin 1751E-302, Power Requirements for Community Central Office Equipment, section 2.3.2.

1.3 With present-day central office equipment and power loading, storage batteries often prove inadequate to hold the voltage at the level required to ensure uninterrupted operation of central office equipment. Provision of emergency generating and charging equipment is warranted in such instances.

1.4 There are alternative means of maintaining the office voltage for an extended interval of time such as the installation of an End Cell unit. However, a discussion of these other means is beyond the scope of this document.

2. GENERAL GENERATING EQUIPMENT NEED

2.1 The possibility of prolonged power failures is always present. Careful consideration of standby equipment with automatic transfer is essential to ensure dependable telephone service.

2.2 Where commercial ac power supply is not extremely reliable, some method of stabilizing the office voltage shall become a necessity. The use of emergency generating equipment with automatic transfer is one method of maintaining a fixed office voltage.

2.3 As an added assurance of service continuity, a minimum of two (2) chargers are required in Item 19.3, Part I, of REA Bulletin 1753E-001 (Form 522), "REA General Specification for Digital, Stored Program Controlled Central Office Equipment," in one of the two following configurations:

- a) Two chargers either capable of carrying the full office load; or
- b) Three chargers each capable of carrying one-half of the office load.

The chargers should be connected on a load-sharing basis so that should one fail, the other charger(s) will carry the office load. The remaining charger should be capable of recharging the batteries during periods of light loads.

2.4 A standby ac generator may also be provided to stabilize the voltage level to permit extended loop limits. Most digital, stored program controlled systems will not provide 1900 ohm operation except under float voltage conditions (51 to 52 volts).

3. ADVANTAGES

3.1 An extension of subscriber loop limits is possible with most types of central office equipment accepted by REA by maintaining the office voltage at 51 to 52 volts. With a constant office voltage of 51 to 52 volts, the maximum subscriber loop, in most cases, is 1900 ohms including the telephone set.

3.2 In some circumstances there may be an economic advantage with stabilized voltage, where longer subscriber loops are involved, in permitting more extensive use of finer gauge cables and eliminating the need of range extension devices. Discussion of loop limitations is referenced in REA Bulletin 1753E-001, (Form 522), Part I, Paragraph 6.6 Loop Extension.

3.3 An added economy that can be realized with a standby power generator is a reduction in the busy hour battery reserve. Where an 8-hour reserve would normally be specified without a standby generator, a 3-hour reserve is adequate when a fixed standby power plant is provided. As an example, where the busy hour current drain is calculated at 100 amperes and an 8-hour battery reserve is required without a standby power plant, the 8-hour battery reserve must be 960 ampere-hours for a final voltage of 1.88 volts per cell. With a standby power plant and a 3-hour reserve, a 520 ampere-hour battery would be adequate. In both cases, the next larger standard size should be selected, but the savings in the battery cost could substantially aid in the purchase of an engine generator or an extra charger.

3.4 During any type of emergency, including those which fall under civil defense, it is essential to maintain telephone service over as wide an area as possible. An auxiliary power plant would add assurance that telephone service would not be entirely disrupted.

4. TYPES OF ENGINE GENERATOR EQUIPMENT

4.1 Engine generators are manufactured in both ac and dc models. The recommended models are the ac type with 120/240 volt, 60 hertz, single or three phase output.

4.2 Gasoline, Liquified Petroleum (LP) gas, natural gas, or diesel engine-driven alternating current generators are available and may be of the air-cooled or water-cooled variety. A detailed description of these various types is given in section 5.

4.3 The machine selected for a particular application should have electrical output characteristics the same as those of the primary source of power. Machines with outputs from 500 to 3,500 watts are normally designed for 120 volt, 60 hertz, single-phase operation. Generators with outputs of 3,500 watts or more are designed for 120/240 volt, 60 hertz, single-phase or three-phase operation.

5. FUEL CONSIDERATIONS

5.1 Since the type of fuel used for emergency engine-driven generating plants is an extremely important consideration, it should be realized that each type has characteristics advantageous to one application, but disadvantageous to another. The major influencing factors for fuel selection are: (a) availability; (b) initial cost; (c) maintenance costs; (d) local fuel storage regulations; and (e) performance requirements.

5.2 Gasoline plants have a lower initial cost than diesel types. Gasoline plants start quickly and dependably over a wide range of temperatures and deliver full rated power. The major disadvantage of gasoline plants is the difficulty in storing the fuel over extended periods of time. This being the case, special precautions have to be taken and minimal quantities kept on hand.

5.2.1 Where recommended by the manufacturer of the engine-generator, unleaded gasoline should be used. For generator sets which operate at constant speeds, lead deposits in the combustion chamber are difficult to "blow out" through the exhaust ports unlike engines operating at variable speeds. Using unleaded gasoline helps reduce problems such as: cylinder head deposits, sticking or burned valves, spark plug fouling, piston wear, ring wear and sticking, cylinder wall wear, and poor oil control after ring fouling.

5.2.2 If it is desired to change from leaded to unleaded gasoline in an existing engine, it is necessary to remove all lead deposits from the engine to prevent preignition from causing severe damage to the engine.

5.3 Gaseous fuels come in two major types: piped-in and LP gas. The former may be natural or manufactured, and the latter a mixture of propane and butane which is supplied under pressure in tanks. No storage problems are encountered with piped-in gas and it is, therefore, quite simple to use. Because LP gases are heavier than air and highly combustible, their storage comes under strict insurance underwriters' regulations. In areas where low temperatures may be encountered, a larger mix of propane should be used. This is the case because butane has a boiling point of about -10°C , whereas propane's boiling point is about -44°C .

5.4 Gaseous fuel contributes to longer engine life and reduced maintenance due to more complete, efficient combustion. Since this fuel contains no lead, there are minimum carbon deposits, less sludge formation, longer valve life and no combustion chamber deposits. In that gaseous fuels remain fresh in storage, starting is quicker after long shutdowns.

5.5 For optimum engine performance of the British Thermal Unit (BTU) gaseous fuel content should be at least 1100 BTU's per cubic foot. Natural and bottled gases meet this requirement, but some manufactured gases may run as low as 450 BTU's. When a lower-rated fuel is used, the manufacturer should be contacted regarding the necessary derating of the plant's capacity.

5.6 Diesel engines are constructed considerably heavier and sturdier than gasoline models which results in higher initial costs. However, the longer life and lower maintenance may justify these high costs. Generally only diesel engines are available in the larger sizes. Diesel fuels are safe and relatively easy to store in sufficient quantities.

5.7 Diesel fuel has a higher BTU content than gasoline. Fuel consumption is considerably less and the efficiency and fuel savings increase with the size of the unit.

5.8 The heavier weight construction of diesel engines plus the absence of plugs, points, and condensers reduces maintenance costs over those of gasoline engines. Diesel engines offer prompt starting, operating speeds are reached quickly, and heavy loads are handled easily.

6. CAPACITIES

6.1 The output capacities of the air-cooled gasoline or LP gas powered units range from about 1000 watts to 15,000 watts, and those of water-cooled units are from 5000 watts upwards.

6.2 Air-cooled diesel powered models range in output capacity from about 3000 watts to 15,000 watts; water-cooled units from 5000 watts upwards.

6.3 Generator ratings listed by the manufacturers should be considered carefully. Rating methods have not been standardized; therefore, a generator rated at 15 kw, for instance, may be unable to supply this load except for a short time. Comparison of the engine horsepower rating and the generator wattage rating should show a ratio of approximately 2 to 1, i.e., 2 horsepower to every kilowatt. It is also important to remember that even though a 15 kw unit rated at less than 30 horsepower may develop the full 15 kw output when new, as the unit ages and wears the output level will drop.

6.4 If the altitude of the installation is greater than the altitude of the manufacturing site, the unit should be derated about 4 percent per 350 meters above sea level.

7. APPLICATION

7.1 When calculating the generator size required, at least part of the central office lighting load should be included so that it is possible to operate some lights and soldering equipment as well as provide the power requirements for the charger. Frequently, a generator one size larger than required for the projected equipment drain is sufficient and can be obtained for small added cost. Providing power for air conditioning, heating and full lighting will increase the cost of a generator substantially but may be desirable in some cases. Air conditioning and/or heating may be mandatory in certain areas for certain equipment, especially for digital, stored program controlled offices. If the central office equipment is located in the headquarters building, it may also be desirable to have sufficient generator capacity to operate office machines and computer equipment although inverters are normally provided for this purpose.

7.1.1 Where long-range growth and power requirements are uncertain, it is advisable to provide standby generator capacity for a shorter time period. When the load reaches this smaller unit's capacity, it could be transferred elsewhere, sold or traded in.

7.2 If the plant is to be mounted inside the central office building, suitable provision have to be made for the entrance of cooling air and for the discharge of exhaust gases into the outside air. Openings for ventilation should be placed to allow the cool air to enter, be forced through the engine cooling system and exit without circulating around the room.

7.3 Some means, such as described in paragraph 9.1.5, have to be provided to prevent voltage from being fed back onto the commercial power facilities to prevent accidental contact with a live line presumed to be unenergized.

7.4 Portable units are not recommended in areas where the year-round weather conditions will not permit transporting the unit between offices. When emergency power is required, it may be needed in more than one office at the same time. Under such circumstances transportable units are impractical.

8. INSTALLATION

8.1 If the Central Office (CO) building is to be new construction, or an addition to an existing building is proposed, it may be advantageous to install the auxiliary power plant as a part of the building contract if the plant is to be permanently mounted in a separate room of the central office building. If a separate room of the CO building is used, it should be enclosed by firewalls and entrance should be from the outside of the building only.

8.2 A clean, dry, well-ventilated location has to be chosen for placement of the auxiliary power plant. The location chosen should preferably have minimum temperature variations. Locations where temperatures are unusually high should be avoided because inefficient cooling will result. Where temperatures fall below 10°C, special accessories such as electric water jacket or manifold heaters will be needed to ensure dependable automatic starts. Since moisture reduces plant efficiency, the power plant has to be located where rain and moisture cannot get to it. For outside installation a weatherproof housing should be specified.

8.2.1 In areas where flooding is prevalent, basement locations have to be avoided. Rooftop installation has advantages such as less noise, rapid dispersion of exhaust fumes, less likelihood of vandalism, and less snow bank problems as well as no flooding. Of course, when a rooftop installation is considered, the structure must be able to support the generator weight and vibration.

8.3 Enough space should be allowed around all sides of the plant for cleaning, ventilation and servicing. The position should be chosen so that ducting to the inlet and outlet openings can be conveniently arranged. Careful consideration has to be given to fuel, exhaust and electrical line routing when choosing a location. Building codes have to also be considered.

8.4 Two louvers with automatic shutters are often necessary in the space provided for the auxiliary power plant; one for air intake and the other to permit escape of the warm air created by the power plant. These openings are in addition to those required for discharge of exhaust gases.

8.5 Mufflers are necessary in most cases to minimize exhaust noise. They are especially important when the central office is located in a residential area. Since a cool muffler creates undesirable carbon deposits, the muffler must be installed as close as practical to the engine.

8.6 When the installation of the ac plant is made a part of the building contract, the plans should include provisions for a fuel line and for a control box to permit transfer features. Mounting needs, including facilities for bolting the unit to the floor or pier, also have to be considered by the architect or engineer. Vibration damping should also be provided.

8.7 Smaller units, 10 kw or less, should be installed on a concrete foundation equipped with anchor bolts. In some cases, steel beam sections will make a satisfactory base. For large plants, which are equipped with steel skids, a separate foundation may not be necessary although it is recommended. In any case, make certain that the floor will support the weight of the plant.

8.8 Regardless of the type of unit considered, the suppliers of auxiliary power plants should be contacted and their help solicited in determining installation requirements. Most suppliers provide sample specifications for each size plant and each provide forms that, when completed, list all information required for the purchase of an adequate standby plant. The local representatives of the suppliers can lend assistance in determining plant requirements.

8.9 When not made part of a building contract, standby power plants should be purchased under a separate contract, REA Form 773 Miscellaneous Construction Work and Maintenance Service. In cases where the supplier of the power plant has an installation force, it may be more convenient and possibly more economical to purchase the unit installed. The supplier assumes full responsibility of all phases of the work including delivery, installation and testing of the plant.

9. GENERAL SPECIFICATIONS

9.1 Regardless of the size of the plant or the type of fuel used to power the plant, the following general specifications should apply as a minimum:

9.1.1 The prime mover should deliver at least 2 horsepower at the rated governed revolutions per minute (RPM) for each kilowatt of the generator's full output rating.

9.1.2 The prime mover's ignition system and associated electrical equipment should be equipped with adequate shielding against radio frequency interference.

9.1.3 Adequate speed regulation should be provided to maintain output voltage under full load to within 10 percent of the output voltage under no load. The frequency under full rated load should be kept within 3 Hz of the no load frequency.

9.1.4 It should be possible to vary the output voltage 5 percent from the rated voltage under full load, regardless of generator speed.

9.1.5 An automatic switchover panel should be provided for an automatic transfer switch with a fail safe feature to prevent voltage from being fed back onto the line. This transfer switch has to be listed by Underwriter's Laboratories or some other organization that meets the definition of "Listed" found in Article 100 of the National Electrical Code, ANSI/NFPA 70.

9.1.6 Cold start generators should be under the protection of a timer to prevent starting of the prime mover for at least 5 seconds after failure of commercial power. This delay should be adjusted to suit the commercial power characteristics. In offices where volatile memories are used, special uninterruptible inverters may be needed to apply continuous power to these items.

9.1.7 Batteries for starting the prime mover of cold start generators should be the "dry charged" type placed under trickle charge after installation. The trickle charger should be regulated to vary the charging current over the required range to provide a full charge without overcharging.

10. RECOMMENDED FEATURES

10.1 All of the engine-driven generators presently available have various features which may or may not be included in the base price of the generator. These features vary with different manufacturers and with models as well as capacity and the type of fuel required. Which options to include will be determined by each specific application, but in most cases the plants should be equipped with the following features:

10.1.1 Load Transfer - Since the power plant is used for emergency power, this control is needed to automatically start the plant when the commercial power fails. Load transfer controls can also be used to ensure that the plant runs for at least 15 to 30 minutes once started. This assures that it reaches operating temperature, evaporates moisture from the oil, etc. The cost of this control is largely dependent upon the size of the plant and added optional equipment desired, such as a time exerciser and/or time delay relays, etc. These load transfer switches should have the safest arrangement of controls possible and all live contacts should be out of reach of unauthorized telephone company personnel. In any case, they have to be listed by Underwriter's Laboratories or some other organization that meets the definition of "Listed" found in Article 100 of the National Electrical Code, ANSI/NFPA 70, and kept locked and access given to authorized personnel only.

10.1.2 Time Exercisers - This option is part of the load transfer equipment and causes the unit to start automatically at timed intervals, run for a short time and then shut off. It is necessary in unattended exchanges to ensure that the emergency plant will start. This equipment should be set to operate at least once a week for at least 30 minutes running time.

Exercising should be done under full load to lubricate internal parts, remove moisture, assure proper starting, keep fresh fuel in the carburetor, bring the engine to operating temperature and recharge the battery. Long periods of no load operation can cause cylinder wall glazing and poor ring seating and attendant high oil consumption. However, the generator should not take over the load until it has reached running speed.

10.1.3 Time Delay Relay - This relay prevents the plant from transferring to the load for outages lasting only a moment or two. (See paragraph 9.1.6). Conversely, it also prevents the unit from retransferring immediately when the commercial power is restored in case the restoration should be momentary. Returning power often fluctuates for several minutes before returning to its nominal value. The central office should not be returned to commercial power until these fluctuations have ceased. It is recommended that a 15-minute delay be used. If the time it takes for these fluctuations to steady is known, a shorter delay may be used.

10.1.4 Frequency Meter - This meter is used to monitor the output of the plant to determine that the 60 Hz output does not vary more than plus or minus 1.5 Hz.

10.1.5 Alarms - In the event that the plant fails to start, either during the period selected by the exerciser or as a result of a commercial failure, a means of transmitting an alarm to an attended office should or needs to be a part of the system. This can be accomplished by an applique circuit that connects to the existing central office alarm circuitry. Alarms can also be used to indicate low oil pressure, high temperature, low fuel level, etc.

10.1.6 Test Switch - A test switch to simulate a commercial power failure is required so that the plant can be manually turned on and off for maintenance checks. There should be an on-off switch on the generator set to permit testing the engine without interrupting normal ac functions.

10.1.7 Underground Fuel Tank - A buried fuel tank may be desirable for a permanently fixed large size water-cooled plant or a medium range LP gas-fueled plant. For the smaller units, 4 kw or less, an above-ground tank with a capacity of 10 to 55 gallons should be adequate. Where longer outages can be reasonably expected, a tank with a capacity for 120 hours full load operation should be provided.

10.1.8 Battery and Trickle Charger - The battery required may be either a single 12-volt battery with a 55-ampere hour capacity needed with the smaller engine generators or as many as four 6-volt batteries for larger diesel or gasoline units. A battery and a means of keeping it charged is a necessary part of the equipment. Provision for mounting space for both the battery and charger should be given consideration, either as a part of the

transfer panel or wall mounting space inside the building if the plant is mounted externally.

The batteries should be mounted on a wood or metal platform as near as possible to the generator, but not beneath it. Battery cables should be the proper size and kept as short as practical.

10.1.9 Crankcase or Water Jacket Heater - Where cold weather occurs, a water jacket or crankcase heater should be ordered with the engine-generator if the plant is to be mounted outside of the building or inside in an unheated room of the central office building.

10.1.10 Running Time Meter - This instrument indicates the accumulative operating time of the engine-generator. This is important in performing periodic maintenance.

10.1.11 Day Tank - A gravity fed priming tank should be installed to assure quick starting of gasoline engines and certain diesel models. While the plant is not being operated, evaporation of gasoline may occur in the carburetor or fuel in the supply line may drain back into the main tank causing a delay in starting, since the fuel has to again be pumped from the tank to the carburetor. The day tank will replace this fuel by means of gravity flow.

Minnesota Rules. Table of ChaptersTable of contents for Chapter 7810**7810.3900 EMERGENCY OPERATIONS.**

Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in traffic, illness of operators, or from fire, storm, or acts of God, and each telephone utility shall inform employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telecommunications service. It is essential that all companies shall make reasonable provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered on short notice, and which can be readily connected. Each central office shall contain as a minimum four hours of battery reserve. In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

EFFECTIVE DATE: October 15, 1990

TITLE 291 - NEBRASKA PUBLIC SERVICE COMMISSION

CHAPTER 5 - TELECOMMUNICATIONS RULES AND REGULATIONS

affected, the time, date and nature of the report, the action taken, the date and time of trouble clearance or other disposition and the identification of the person making final disposition. The carrier shall furnish reports to the Commission upon request.

002.04C It shall be the objective to so maintain access line service that the average rate of all access line trouble reports in an exchange is no greater than six (6) per one hundred (100) access lines per month, based on a six (6) month period. In the event this average trouble rate reaches eight (8) per month, in a particular exchange, it shall be the responsibility of the exchange carrier serving that exchange to develop a plan to improve service in the exchange with the objective being to reduce trouble reports to acceptable levels.

002.04D In the case of access line service interruptions, each exchange carrier shall provide repair service daily consistent with the bona fide needs of the customer and the personal safety of exchange carrier personnel.

002.05 Emergency Operations and Power:

002.05A Each exchange carrier shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, sudden and prolonged increases in local calls or similar emergencies and each exchange carrier shall inform its employees as to procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of access line service.

002.05B It is essential that all central offices have reasonably adequate provisions for emergency power. For offices without permanently installed emergency power facilities, there shall be a mobile power unit available which can be delivered on reasonably short notice and which can be readily connected.

002.05C Each central office shall contain, as a minimum, three (3) hours of battery reserve.

- (1) A negligent or willful act on the part of the subscriber;
- (2) A malfunction of subscriber-owned telephone equipment;
- (3) Disasters or acts of God; or
- (4) The inability of the company to gain access to the subscriber's premises.

The adjustment, either a direct payment or a bill credit, shall be the proportionate part of the monthly charges for all services and facilities rendered inoperative during the interruption. The adjustment shall begin with the hour of the report or discovery of the interruption. Adjustments not in dispute shall be rendered within two billing periods after the billing period in which the interruption occurred.

Repair—missed appointments. When a utility makes an appointment for installation or repair within a given range of time, and misses that appointment by over an hour, the customer will receive one month's primary local service free of charge. This is applicable to each missed appointment. The expense incurred as a result of a missed appointment in providing free primary local service shall not be included in rates.

Emergency operation.

a. Each telephone utility shall make reasonable provisions to meet emergencies resulting from failures of power service, climate control, sudden and prolonged increases in traffic, illness of operators, or from fire, explosion, water, storm, or acts of God, and each telephone utility shall inform affected employees, at regular intervals not to exceed one year, of procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of telephone service.

b. All central offices shall have adequate provision for emergency power. Each central office shall contain a minimum of two hours of battery reserve. For offices without permanently installed emergency power facilities, there shall be access to a mobile power unit with enough capacity to carry the load which can be delivered on reasonably short notice and which can be readily connected.

c. An auxiliary power unit shall be permanently installed in all toll centers and at all exchanges exceeding 4,000 access lines.

d. Each local exchange utility shall maintain and make available for board inspection, its current plans for emergency operations, including the names and telephone numbers of the local exchange utility's disaster services coordinator and alternates.

Business offices.

a. Each local exchange utility shall have one or more business offices or customer service centers staffed to provide customer access in person or by telephone to qualified personnel, including supervisory personnel where warranted, to provide information relating to services and rates, accept and process applications for service, explain charges on customers' bills, adjust charges made in error, and, generally, to act as representatives of the local exchange utility. If one business office serves several exchanges, toll-free calling from those exchanges to that office shall be provided.

b. Upon the closing of any local exchange utility's public business office, the company must provide to the board, in writing, at least 30 days prior to the closing of the office the following information:

- (1) The exchange(s) and communities affected by the closing;
- (2) The date of the closing;
- (3) A listing of other methods and facility locations available for payment of subscribers' bills in the affected exchanges; and
- (4) A listing of other methods and locations available for obtaining public business office services.

National Standards Institute, the National Electrical Code, the National Electrical Safety Code, the exchange carriers standards association, the rural electrification administration, and such other codes and standards as are generally accepted by the industry, except as modified by this commission or by municipal regulations within their jurisdiction. The telecommunications plant shall be designed, constructed, maintained and operated in accordance with these standards, and in such manner to best accommodate the public, and to prevent interference with and from service furnished by other public utilities insofar as practical. The carrier shall design and construct the telecommunications facilities to reduce or prevent electromagnetic interference from AC power systems. The carrier shall engage in prior coordination with power utilities in the area before placing new plant or making major changes in existing plant likely to be impacted by the power utility's facilities. Such coordination shall be governed by the latest issue of ANSI/IEEE 776 Guide for Inductive Coordination of Electric Supply and Communications Lines.

(2) Automatic number identification. Exchange carriers shall have as an objective the provision of automatic number identification in all exchanges. All exchange carriers shall file a report with the commission within six months following adoption of this rule, and every six months thereafter, including the status of current exchanges and plans to comply with this provision.

(3) Party line service. Where party line service is provided, no more than four customers shall be connected to any one channel, unless such action is approved by the commission. The exchange carrier may regroup customers in such a way as may be necessary to carry out the provisions of this rule. Upon completion or delay in the meeting of this requirement a report to that effect shall be filed with the commission.

(4) Selective carrier denial. Exchange carriers shall have as an objective the provision of selective carrier denial in all exchanges. All exchange carriers shall file a report with the commission within 18 months following adoption of this rule, and every 6 months thereafter, including progress towards compliance and timetable for completion of implementation. (History: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102 and 69-3-201, MCA; NEW, 1989 MAR p. 1515; Eff. 9/29/89.)

38.5.3351 EMERGENCY OPERATION (1) Carriers shall make reasonable provisions to meet emergencies resulting from failures of lighting or power service, unusual and prolonged increases in traffic, illness of personnel, or from fire, storm, or other acts of God and inform its employees as to procedures to be followed in the event of emergency in order to prevent or minimize interruption or impairment of telecommunications service.

(2) Each central office and interexchange toll switching office or access tandem shall contain as a minimum four hours of battery reserve.

(3) In central offices exceeding 5,000 lines and in all interexchange toll switching offices or access tandems, a permanent auxiliary power unit shall be installed. In central offices without permanently installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice. (History: Sec. 69-3-103, MCA; IMP, Secs. 69-3-102 and 69-3-201, MCA; NEW, 1989 MAR p. 1515; Eff. 9/29/89.)

38.5.3352 CONSTRUCTION WORK NEAR EXCHANGE CARRIER FACILITIES (1) Upon receipt of written or verbal notification from the property owner, or from a contractor, of work which may affect its facilities used for serving the public the carrier shall investigate and decide what action if any, must reasonably be taken to protect or alter telephone facilities in order to protect service to the public and to avoid unnecessary damage, such as identifying in a suitable manner the location of any underground

(vi) The provider shall maintain its system in a manner to meet service adequacy standards defined in rules 508 through 511 herein, and in accordance with the general practices and standards of the telecommunications industry. Programs of testing, inspections and preventive maintenance aimed at achieving efficient operation of its system to permit, at all times, the rendering of safe, adequate and continuous service shall be adopted. The existence of inductive interference, cutoffs, crosstalk and excessive noise is evidence of the necessity of a maintenance program.

Section 506. Provision of Service During Maintenance or Emergencies.

(a) The provider should make reasonable provisions to meet catastrophic emergencies.

(b) For any local central office, toll switching facility, tandem switching facility or any facility critical to network integrity, permanent auxiliary power generation capable of sustaining functionality for a minimum of eight (8) hours shall be installed and operable. Quarterly functional tests shall be conducted to assure auxiliary power sources correctly activate and continue uninterrupted facility operation. The test results shall be filed with the Commission.

(c) Service interruptions for an extended time due to maintenance requirements shall be done at a time which causes minimal inconvenience to customers. Customers shall be notified in writing, in advance by the provider of extended maintenance requirements with appropriate and reasonable consideration of customer security requirements considered.

(d) The provider shall maintain a disaster recovery plan to comply with the requirements of FEMA and/or WEMA.

Section 507. Availability of Service - Adequacy of Facilities. The provider shall employ prudent management and engineering planning and design practices to assure that adequate equipment is in place to meet requests for service to prospective customers in its service territory within a reasonable time as set forth in this section. The time frames specified in this section and the associated remedies for failure to meet these time frames apply to requests for local exchange service. To facilitate this section, all telecommunications providers shall file terms of service, tariffs or other documents which set forth the conditions and costs under which service extensions will be made available.

(a) Construction Charge Estimate. Where construction charges apply, the provider shall provide to the customer a good faith written cost estimate of the amount of

SEP 30 2004

Power Supply Response Team

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Objective

The Objective of the Power Supply Response Team (PSRT) is to provide uninterrupted service to telephone subscribers during periods of commercial power interruption. Midcontinent Communications utilizes power supplies within its network which convert commercial power to 87.5-volts AC and provide the power to the network nodes, amplifiers and customer premise equipment. Each power supply unit shall have battery backup in order to continue to provide network power in the event of a commercial power failure. Portable generators shall be deployed by the PSRT to provide continuous uninterrupted power augmenting the battery power life cycle.

Power Supply Response Team Members

The PSRT shall consist of the Network Operations Center (NOC) staff, outside plant and on-call technicians (OSPT), outside plant supervisors (OSPS) and company management.

Manpower Plan

Normal Business Hour Plan- All regularly scheduled technicians, supervisors and NOC staff are available for participation as PSRT members.

Off-Hour Plan- On-call technicians, secondary on-call technicians, NOC staff are available 24 hours, 7 days every week as PSRT members.

Communication tools- Communication tools include the NOC Network Management System (NMS), cellular telephones, wire-line telephones, pagers and Internet email.

Vehicles- Vehicles are provided for all OSPT and OSPS.

Network Operations Center Monitoring

The Network Operations Center (NOC) shall monitor all power supply units (PSU) on a 24 hour 7 day per week basis. When status monitoring detects an interruption of commercial power to a PSU and battery operation is engaged (power event), a ticket is created and an NMS Alert is communicated to the PSRT.

Power Event Status Definitions:

Gray power event- one-three PSU on power event ticket.

Brown power event- at least four but less than 11% of total PSU on power event ticket.

Black power event- 11% or more of total PSU on power event ticket.

The following documentation has been provided to the NOC staff to ensure quality performance:

- a) Commercial Power Utility Company list of telephone numbers and personnel contacts.
- b) Midcontinent Supervisor and on-call technician telephone numbers and schedule.
- c) Information necessary to calculate the anticipated run times of PSU(s) on battery operation.
- d) PSU documentation including but not limited to location of units, number of batteries installed, load and network equipment operating on battery power.

Power Event:

- 1) The NOC staff creates a ticket (NMS Alert) when a power event occurs.
- 2) The NOC staff logs the event by PSU name(s), location(s), address(s), time and date on a single ticket power event.
- 3) The NOC staff calculates the anticipated battery run time of the PSU(s) involved in the power event and logs the anticipated loss of network power time of day (LNPT).
- 4) The NOC staff contacts the commercial power utility company within 20-25 minutes of the power event, inquires into the circumstance.

Power Event + 30 minutes:

- 5) The NOC staff, when commercial power has not been restored within 30 minutes of the ticket event contacts the appropriate OSPT/OSPS.
- 6) The NOC staff communicates to the OSPT/OSPS the PSU(s) involved in the power event, location(s), address(s), the LNPT, the power event status (gray/brown/black) and the power company inquiry response.
- 7) The NOC staff updates the ticket (NMS Alert), and logs all pertinent information from prior activities.

Continuous Updates:

- 8) The NOC staff shall continue to monitor the status of the PSU(s) and report to the OSPT/OSPS any and all changes including but not limited to; return to normal operation (commercial power), expansion or contraction of the number of PSU(s) affected and log appropriately.

LNPT -90 minutes:

- 9) The NOC staff, when commercial power has not been restored within 90 minutes of the pending LNPT, shall communicate to the OSPT/OSPS that action is required.
- 10) The NOC staff updates the ticket (NMS Alert), with the name of the OSPT/OSPS contact personnel and designates that action is required.

Continuous Updates:

- 11) The NOC staff shall continue to monitor the status of the PSU(s) and log including but not limited to the generator installation, time and OSPT reporting.

Power Event Conclusion:

- 11) The NOC staff shall continue to monitor the status of the PSU(s) and once commercial power has been restored log appropriately.
- 12) The NOC staff, after commercial power has been restored for 30 minutes, verifies status with the commercial power company.
- 13) When the commercial power company verifies power is restored and stabilized, the ticket (NMS Alert) shall be closed and the OSPT informed.

Outside Plant Technician (OSPT) or Supervisor (OSPS) Responsibilities

Power Event:

- 1) No action is required by the OSPT/OSPS.

Power Event + 30 minutes:

- 2) OSPT/OSPS receives communication from the NOC of the Power Event.
- 3) OSPT/OSPS accepts the responsibility and decision making process to deploy the manpower and resources necessary to provide continuous power to the network.
- 4) OSPT/OSPS makes decisions on response(s) required based upon the escalation policy.
- 5) OSPT/OSPS communicates all progress on all tickets to additional OSPT(s) during shift change notifications.

Continuous Updates:

- 6) OSPT/OSPS to be available for updates from the NOC staff.

LNPT -90 minutes:

- 7) OSPT receives communication from NOC to deploy generator(s).
- 8) OSPT without delay to picks up the generator(s) at the storage location.
- 9) OSPT without delay to installs the generator(s) at the PSU location(s).
- 10) OSPT notifies the NOC of the PSU generator(s) installation.

Power Event Conclusion:

- 11) OSPT notifies the NOC when the generator is removed.
- 12) OSPT returns the generator(s) to the storage location.
- 13) OSPT follows the maintenance and refueling plan.
- 14) OSPT updates the generator(s) usage log.

Escalation Policy

- If the power event status is gray, OSPT is not required to escalate.
- If the power event status is brown, the OSPT shall contact the secondary on-call technician and his supervisor. The supervisor at his/her discretion may contact the General Manager.
- If the power event status is black, the supervisor shall contact the General Manager. The General Manager shall contact company management for assistance from other Midcontinent systems as necessary.

Equipment Plan (Generators)

Each system shall have ready for service at an accessible posted location, fueled generators equal to ten percent (10%) plus one of the installed base of PSU(s). If needed, a trailer shall be available on site for transport of the required units.

Each accessible location shall have a maintenance and refueling plan on site for use and included in the company's preventative maintenance program.

Each accessible location shall have a generator usage log posted for documentation.

PSU Documentation

- All PSU changes requiring Network Change Notices shall be documented in AutoCAD and communicated by the AutoCAD Database Coordinator to the NOC.
- The AutoCAD Database Coordinator shall verify the accuracy of and reconcile NOC and AutoCAD PSU information every six months.
- Database information shall include the type, location, street address, power utility provider and number of batteries installed.

Post Mortem Meetings

A meeting shall automatically be called to review any circumstance where a subscriber is out of service because of PSRT procedure failure. A report of conclusions and recommendations for corrective action shall be available at the system office.

Training

OSPT and OSPS shall be trained in the operation of the PSU, generator installation and PSRT procedures.

Periodic outage simulations shall be conducted without prior notice to the PSRT members by management to evaluate the continued effectiveness of the plan and readiness of the system tested.

**PUBLIC UTILITIES COMMISSION
MINUTES OF PUBLIC HEARING**

The Public Utilities Commission convened the rules hearing at 1:30 p.m. on Monday, September 20, 2004, in Room 413, Fourth Floor, State Capitol, Pierre, South Dakota.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the Commission numbered 20:10:33:19 and 20:10:35:11.

Members of the Commission in Attendance: Commissioners: Robert K. Sahr, Gary Hanson and James A. Burg; Commission Staff: Pam Bonrud, Rolayne Ailts Wiest, Karen E. Cremer, Harlan Best and Sara Harens.

Others in Attendance: Brett Koenecke, representing Midcontinent Communications, Tom Simmons, Midcontinent Communications and Rich Coit, representing South Dakota Telecommunications Association.

Written Testimony: None.

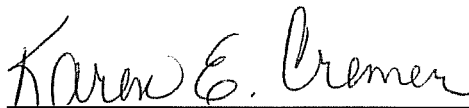
Oral Testimony pertaining to ARSD 20:10:33:19

Brett Koenecke, representing Midcontinent Communications, requested that the Commission allow telecommunications companies to decide what is best for their customers when it pertains to backup power during a power interruption.

Tom Simmons, representing Midcontinent Communications, asked that the Commission write the rule so that the responsibility of the telecommunications company to keep telephones powered during an interruption remain, but to permit technology to drive how that is done.

Rich Coit, representing SDTA, proposed rule language that he states is both technologically and competitively neutral, and agreed that the current language of the rule is too technology specific and should be changed. SDTA believes that the rule should apply to wireless companies as it is a service quality issue.

Respectfully submitted,



Karen E. Cremer
Staff Attorney
Public Utilities Commission



**DEPARTMENT OF EXECUTIVE MANAGEMENT
BUREAU OF FINANCE AND MANAGEMENT**

500 East Capitol Ave. • Pierre, South Dakota 57501-5070 • Voice: (605) 773-3411 • Fax: (605) 773-4711

August 4, 2004

The Bureau of Finance and Management has reviewed the attached proposed rules from the Department of Labor and concurs with the assumptions and fiscal impact calculations within the attached package.

KE/jsd

Kellie
05004

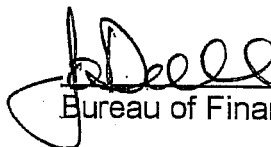
IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:33:19 and 20:10:35:11,
- (2) the notice of hearing, and
- (3) the fiscal note

is hereby admitted at Pierre, South Dakota, this 29th day of July, 2004.


Bureau of Finance and Management

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

20:10:33:19. Auxiliary and battery power requirements. All telephony providers shall maintain continuous service to local residents during localized power interruptions. Localized power interruptions are those affecting not greater than ten percent of the customers served within an exchange. All telephony providers shall provide best efforts to maintain service during catastrophic power interruptions. Catastrophic power interruptions include all events where commercial power is lost to greater than ten percent of the customers served within an exchange. Events causing catastrophic power interruptions include but are not limited to natural disasters such as flood, hail storms, ice storms, tornado, wind storms, snow storms, fires and man-made hazards such as hazardous materials incidents, ground transportation incidents, fires, nuclear attacks, terrorist attacks, explosions and releases of poisonous gas into the atmosphere.

Each local central office, toll switching office, or tandem switching office of a local exchange company shall contain a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. A permanent auxiliary power unit may be utilized to meet this requirement. In central offices and toll tandem switching offices, a permanent auxiliary power unit shall be installed or a mobile power source shall be available which normally can be delivered and connected within four hours. ~~The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of 8 hours, plus or minus 15 percent, of battery reserve rated for peak traffic load requirements. The~~

batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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

General Authority: SDCL 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

CHAPTER 20:10:35

TELECOMMUNICATIONS SERVICES

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11 (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to update register.

- 20:10:35:12 Reporting of violations.
- 20:10:35:13 Information provided for complaints.
- 20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered

20:10:33:19 and 20:10:35:11

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

Persons interested in presenting data, opinions, and arguments for or against the proposed rules may do so by appearing in person at the hearing or by sending them to the South Dakota Public Utilities Commission, State Capitol, 500 East Capitol, Pierre, South Dakota 57501-5070. Material sent by mail must reach the Public Utilities Commission by September 3, 2004, to be considered.

After the hearing, the Commission will consider all written and oral comments it receives on the proposed rules. The Commission may modify or amend a proposed rule at that time to include or exclude matters that are described in this notice.

Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number for making special arrangements is (605) 773-3201.

Copies of the proposed rules may be obtained without charge from the

South Dakota Public Utilities Commission
State Capitol
500 East Capitol
Pierre, SD 57501-5070

The proposed rules may also be found on the Public Utilities Commission's home page at the following address: <http://www.state.sd.us/puc>.

**ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency**

	CODE	NAME
DEPARTMENT	10	Department of Labor
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE 20:10:33:19 and 20:10:35:11
 Hearing Date August 24, 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

COST INCREASES (DECREASES)

State Agencies	First Year Impact	Continuous Yearly Impact
TOTAL	0	0
Local Subdivisions		
TOTAL	0	0
Revenue/Increases (Decreases) State & Local		
TOTAL	0	0

APPROVED  DATE 7/20/04
 Signature Department Secretary or Board or Commission Chairman

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made.

CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

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batteries shall be tested and reported internally on a regular basis, not to exceed once a year. All wireless or cellular tower electronics shall be considered a tandem switching office for the applicability of this rule.

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Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 413, State Capitol, 500 East Capitol, Pierre, South Dakota, on August 24, 2004, at 8:30 A.M., to consider the adoption and amendment of proposed rules numbered 20:10:33:19 and 20:10:35:11.

The effects of the proposed rules changes are as follows:

In Section 20:10:33:19, the amendment would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage.

In Section 20:10:35:11, the amendment would require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days. This rule would be effective January 1, 2005. The South Dakota register consists of the South Dakota portion of the federal do not call register.

The reason for the proposed rule change to ARSD 20:10:33:19 is to recognize that telephony architecture consists of more than traditional copper based systems.

The reason for the proposed rule change to ARSD 20:10:35:11 is to make the rule comparable to the Federal Trade Commission's requirements for downloading updates from the federal do not call register.

There are no fiscal impacts on state agencies or local governmental subdivisions.

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:33:19

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
 - Direct impact (*please complete remainder of form*)
 - Indirect impact (*please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered*)

The rule would provide a baseline for service requirements regarding which backup system is best for their company.

2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:
3. What is the basis for the enactment of the rules(s)?
 - Required to meet changes in federal law
 - Required to meet changes in state law
 - Required solely due to changes in date (i.e. must be changed annually)
 - Other: _____
4. Why is the rule(s) needed?
5. What small businesses or types of small businesses would be subject to the rule?

6. Estimate the number of small businesses that would be subject to the rule.
 1-99 100-499 500-999 1,000-4,999 More than 5,000
 Unknown - please explain _____

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

a. If "yes," how many reports must a small business submit to the state on an annual basis?

b. If "yes," how much ongoing recordkeeping within the business is necessary?

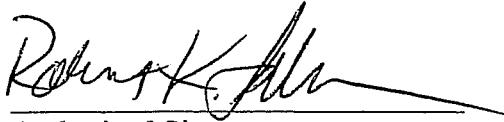
c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other _____
- Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

- No - please explain _____
- Yes - please explain _____

7/20/04
Dated


Authorized Signature

Public Utilities Commission
Name of Agency

FORM 14

SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)

ARSD 20:10:35:11

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
- Direct impact (please complete remainder of form)
 - Indirect impact (please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered)
2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The change to ARSD 20:10:35:11 requires a telephone solicitor to update the South Dakota portion of the do not call list every 31 days instead of every 90 days. This rule change will affect small businesses who make unsolicited telephone calls to South Dakota residential telephone subscribers.

3. What is the basis for the enactment of the rules(s)?
- Required to meet changes in federal law
 - Required to meet changes in state law
 - Required solely due to changes in date (i.e. must be changed annually)
- Other: _____

4. Why is the rule(s) needed?

South Dakota has adopted the federal do not call list as its list. The Federal Trade Commission recently changed its rule from 90 days to 31 days under its safe harbor provisions. The state rule change will make the state rule more consistent with the federal rule. The effect of the rule is that once a consumer places his/her residential telephone number on the list, the consumer will only need to wait for a maximum of 31 days before telephone solicitors must stop making unsolicited calls.

5. What small businesses or types of small businesses would be subject to the rule?

All small businesses that make unsolicited telephone calls to residential telephone subscribers will be subject to the change.

6. Estimate the number of small businesses that would be subject to the rule.
- 1-99 100-499 500-999 1,000-4,999 More than 5,000

Unknown - please explain:

All telephone solicitors who make unsolicited telephone calls to South Dakota residential telephone subscribers must pay an annual fee to the Commission. To date, 90 have paid the fee but the Commission cannot verify that all solicitors who are making calls have paid the fee. Five of the 90 have five or less employees and eight have six to 49 employees.

7. Are small businesses required to file or maintain any reports or records under this rule?
 Yes No

Records would need to be updated regarding who the business cannot call.

- a. If "yes," how many reports must a small business submit to the state on an annual basis?

Reports are not required.

- b. If "yes," how much ongoing recordkeeping within the business is necessary?

The business will need to download the list from the FTC and not call numbers on the list.

- c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
 It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
 It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
 It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
 Other _____
 Unknown - please explain _____

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

No - please explain:

Even if our state rule was not changed, the solicitor should still be following the federal rule.

Yes - please explain _____

7/20/04
Dated Authorized

Robert K. Auld
Signature

Public Utilities Commission
Name of Agency

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

AFFIDAVIT

I, Delaine Kolbo, hereby certify that on October 8, 2004, I mailed a full, true, and correct copy of the following rule adopted by the Public Utilities Commission on October 8, 2004, together with a copy of the minutes of the public hearing and written comments, to the members of the Interim Rules Review Committee, listed below, at their respective post office addresses:

Proposed revised rule: § 20:10:35:11

The Honorable Orville Smidt
State Representative
117 Fourth Street
Brookings, SD 57006-1915

The Honorable Eric Bogue
State Senator
P. O. Box 250
Faith, SD 57626-0250

The Honorable Richard A. Engels
State Representative
46430 SD Highway 38
Hartford, SD 57033

The Honorable H. Paul Dennert
State Senator
11853 391st Avenue
Columbia, SD 57433-7002

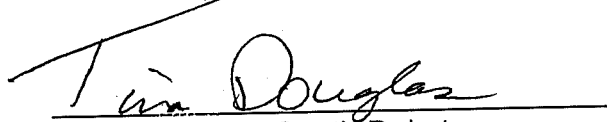
The Honorable Jean M. Hunhoff
State Representative
2511 Mulligan Drive
Yankton, SD 57078

The Honorable Royal "Mac" McCracken
State Senator
3120 Flint Drive
Rapid City, SD 57702



Delaine Kolbo

Subscribed and sworn to
before me this 8th day
of October, 2004.



Notary Public - South Dakota

(SEAL)

My Commission Expires

TINA DOUGLAS
My Commission Expires
April 8, 2005

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

APPROVAL OF RULES

Following public hearing held on September 20, 2004, the following rule is approved
and will become effective twenty days after filing with the Secretary of State.

Proposed revised rule: § 20:10:35:11

Date: 10/8/04

Date _____

PUBLIC UTILITIES COMMISSION



Robert K. Sahr, Chairman

LEGISLATIVE RESEARCH COUNCIL
(for legality and for form and style)



Gary Hanson, Commissioner



James A. Burg, Commissioner

**CHAPTER 20:10:35
TELECOMMUNICATIONS SERVICES**

Section

- 20:10:35:01 Definitions.
- 20:10:35:02 Establishment of the register.
- 20:10:35:03 Procedure for enrollment on the register.
- 20:10:35:04 Procedure for changing telephone numbers.
- 20:10:35:05 Fees for registration.
- 20:10:35:06 Telephone solicitors shall obtain a copy of the register.
- 20:10:35:07 Telephone solicitors limited in use of register.
- 20:10:35:08 Telephone solicitors shall pay an annual fee.
- 20:10:35:09 Annual fee due prior to making telephone solicitation calls.
- 20:10:35:10 Information required of telephone solicitors.
- 20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register (Effective January 1, 2005) Telephone solicitors are required to make updates from register.
- 20:10:35:12 Reporting of violations.
- 20:10:35:13 Information provided for complaints.
- 20:10:35:14 Investigation of complaints.

20:10:35:11. (Effective through December 31, 2004) Telephone solicitors are required to update register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update the South Dakota register every ninety days.

(Effective January 1, 2005) Telephone solicitors are required to update make updates from register. Any telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers is required to update make updates from the South Dakota register every ninety thirty-one days.

Source: 30 SDR 25, effective August 28, 2003.

General Authority: 49-31-99.

Law Implemented: 49-31-99, 49-31-100, 49-31-101, 49-31-102.

RECEIVED

OCT 12 2004

OCT 14 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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ADMINISTRATIVE RULES

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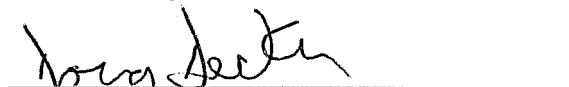
Date: 10/8/04

Date 10/12/2004

PUBLIC UTILITIES COMMISSION



Robert K. Sahr, Chairman


LEGISLATIVE RESEARCH COUNCIL
(for legality and for form and style)


Gary Hanson, Commissioner


James A. Burg, Commissioner



Legislative Research Council

Rep. Orville B. Smidt, Chair
Sen. Ed Olson, Vice Chair

James Fry, Director
Doug Decker, Code Counsel

MEMORANDUM

October 1, 2004
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OCT 01 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

TO: Rules Contacts
FROM: Doug Decker, Code Counsel *Doug*
RE: Interim Rules Review Committee Meeting – October 15, 2004

Your agency has been scheduled to present rules at the next Interim Rules Review Committee meeting (see the enclosed agenda). The agency must have a representative present at this meeting to explain the rules, give background information, or answer any questions from the committee.

Each agency must serve a copy of the rules and other information on the committee members at least five days before the meeting. Please review the "Directions For Submitting The Final Draft". The five-day requirement should be considered the minimum time allowed for service of the rules before the meeting. The committee members will use the copy of the rules that is served on the committee as part of the rule adoption process according to SDCL 1-26-4(9) to prepare for the meeting. The service of the rules must be done with enough time between the service of the rules and the meeting to allow the committee members time to review the rules prior to the meeting. A committee member who has not received the rules in time to review the rules before the meeting may vote to reject the agency's rules.

Thank you for your cooperation in this matter. This procedure will expedite the presentation of your rules before the committee and give the committee members access to the most recent version of your rules.

DD:ks

Enclosure: Agenda

ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency

	CODE	NAME
DEPARTMENT	10	LABOR
DIVISION	109	Public Utilities Commission
PROGRAM		

PROPOSED RULE: 20:10:33:19 & 20:10:35:11

Hearing Date: August 24, 2004

RECEIVED

FISCAL IMPACT STATEMENT:

Brief description of fiscal impact; (Example: Pursuant to 1-26-402, these rules have minimal impact to all entities. No additional staffing or resources are needed.)

OCT 01 2004

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
	0	0
TOTAL	0	0
Local Subdivisions:		
	0	0
TOTAL	0	0
Small Business Increases (Decreases)		
	0	0
TOTAL	0	0

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business :		
	0	0
TOTAL	0	0

APPROVED

Signature Department Secretary or Board or Commission Chairman

DATE August 04, 2004

ATTACH: Copy of proposed rules; separate sections for: 1) explanation of rules effect, i.e. what procedures, schedules, activities, etc. will change with its adoption 2) statistics used, and their source, 3) assumptions that were made to arrive at fiscal impact, 4) computations that were made, 5) small business impact statement



Legislative
Research
Council

RULES REVIEW
COMMITTEE AGENDA

Senator Royal "Mac" McCracken, Chair
Representative Jean M. Hunhoff, Vice Chair

Two hundred fifty-second meeting
Friday
October 15, 2004

Room 413
State Capitol
Pierre, South Dakota

Agencies are asked to have a representative present at the meeting to give background information on their rules.

9:00 a.m. Call to order, roll call, approval of minutes, staff report

9:10 a.m. Review of proposed rules

Senator McCracken

Department of Transportation - Amend speed zones in Hughes County on U.S. Highway 14, U.S. Highway 83, and State Trunk Highway 34 through the city of Pierre.

Department of Transportation - Add a 30 mph speed zone in Lawrence County along US Highway 14A to lower the speed limit through an area near downtown Deadwood; add a 50 mph speed zone along South Dakota Highway 34 near the junction with South Dakota Highway 47 at Fort Thompson; and extend 30 mph and 45 mph speed zones in Kingsbury County along US Highway 14 to the east through the City of Lake Preston near the east entrance to the park and swimming pool complex.

Department of Revenue and Regulation: Division of Insurance - Amend rules to update the continuing education requirements; specify when the long-term care suitability report is due; implement privacy guidelines for health information; and define terms and clarify that a report is required for group disability income products.

Representative Hunhoff

Department of Health - Adopt and amend rules relating to Radiation Safety, Drug Control, and Medical Facilities.

Senator Bogue

Department of Education: Board of Education - Amend rules to clarify appropriate mileage and travel time reimbursement options for early intervention service providers, and to expand endorsement opportunities for principals.

Department of Labor: Public Utilities Commission - Amend rules that would provide a baseline for service requirements while allowing telephony providers to determine which system of electrical backup will keep their customers in communication during a power outage and to require a telephone solicitor who makes unsolicited telephone calls to South Dakota residential telephone subscribers to download updates from the South Dakota do not call register every thirty-one days, instead of every ninety days.

Representative Engels

Department of Environment and Natural Resources: Environmental Services/Drinking Water - Repeal an existing chapter of state rules for Consumer Confidence Reports and update it by incorporating by reference the most recent published version of the Code of Federal Regulations for drinking water.

Department of Environment and Natural Resources: Environmental Services/Operator Certification - Amend rules to clarify which operators are eligible to become certified as Class III or IV operators.

10:30 a.m. Break

Department of Health: Board of Examiners in Optometry - Amend rules to establish that the date and place for examinations is to be fixed by the National Board of Examiners in Optometry; change the amount of the application fee and fee paid upon issuance of certificate; revise the rules relating to the scope of practice; authorize one annual renewal fee of \$175, instead of the two separate fees, \$150 for renewal for licensed optometrists not certified in the use of pharmaceutical agents, plus an additional \$25 for those licensed optometrists certified in the use of pharmaceutical agents; increase the reinstatement fee after default; and increase the reciprocity fee to be the same as the application fee.

Department of Labor: Cosmetology Commission - Amend rules to update requirements for apprentice senior instructor license applications, change the annual renewal dates to birth dates for individuals and to opening dates for salons starting in 2006, change the work credit for reciprocity applicants, update and clarify safety and sanitation procedures, clarify non-invasive chemical use on skin, update prohibited products, update training and curriculum requirements for apprentices, increase the continuing education for instructors from ten annual hours to twelve annual hours, require continuing education for the use of electrical nail files, add that the commission will provide certificates for continuing education, require all foot spas to be disinfected after each use, allow a verification fee and pre-approval for a course provider to teach a course, clarify the type of education required by senior instructor to teach apprentices,

and add a newly published textbook to the approved textbooks.

Department of Environment and Natural Resources: Water Management Board/Water Rights Program - Amend Water Rights Program rules to allow bentonite grout to be used instead of cement grout as an annular seal under certain conditions, and to require applicants for new well driller licenses to pass an examination.

Department of Environment and Natural Resources: Water Management Board/Ground Quality Water Program - Amend the Groundwater Quality Standards rules to set ground water quality standards to the updated maximum contaminant levels as set by the U.S. Environmental Protection Agency; and amend the Groundwater Discharge Permits rules to define "shallow aquifer," clarify who must apply for a ground water discharge plan, specify the maximum duration for a groundwater discharge facility construction permit, and specify renewal requirements for a groundwater discharge facility construction permit.

Department of Environment and Natural Resources: Water Management Board/Surface Water Quality Program - Amend rules to clarify that all waters of the state are subject to public recreation if they can be reached without trespassing on private property.

Representative Smidt

Department of Game, Fish and Parks - Amend camping fees at Buryanek and West Pollock Recreation Areas; allow shotguns using shot shells and bow and arrow to be used during established hunting seasons at Okobojo Recreation Area; and amend handicapped persons hunting permits.

Department of Game, Fish and Parks - Amend rules to increase the fee for certain licenses and permits (hunting, fishing, falconry, fur dealer, and taxidermist).

12:00 p.m. Adjourn

NOTE: To help agencies estimate when to appear before the committee, the agenda is set assuming a ten-minute presentation per rule. However, actual times may vary.

Members: Senator Royal "Mac" McCracken, Chair; Representative Jean M. Hunhoff, Vice-Chair; Senators Eric H. Bogue and H. Paul Dennert; and Representatives Richard H. Engels and Orville B. Smidt.

NOTE: *Individuals needing assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/773-3251) in advance of the meeting to make any necessary arrangements.*



All Legislative Research Council committee minutes and agendas are available on the South Dakota Legislature's Homepage (<http://legis.state.sd.us>). Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at MyLRC (<http://legis.state.sd.us/mylrc/index.cfm>).

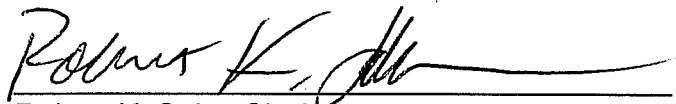
IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

CERTIFICATE

I, Robert K. Sahr, hereby certify that I am a duly appointed member and the duly elected chair of the Public Utilities Commission and that the attached instruments are full, true, and correct copies of the following rule adopted by the Public Utilities Commission on October 8, 2004.

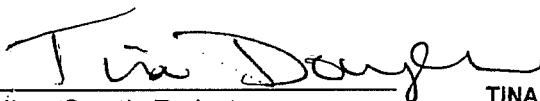
Proposed revised rule: § 20:10:35:11.

I further certify that SDCL 1-26-4 and 1-26-6 were complied with in the adoption of this rule. This rule will become effective twenty days after filing with the Secretary of State.



Robert K. Sahr, Chairman
Public Utilities Commission

Subscribed and sworn to
before me this 20th day
of October, 2004.



Notary Public - South Dakota

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My Commission Expires
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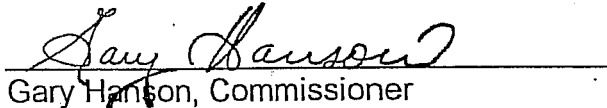
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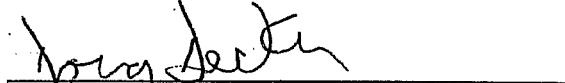
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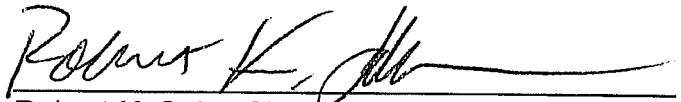
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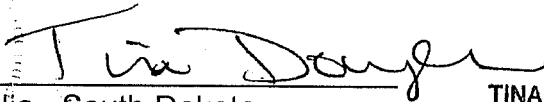
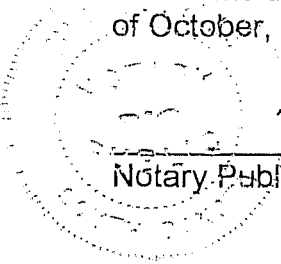
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