



South Dakota

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

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Doug Decker, Code Counsel

December 15, 2010

Ms. Rolayne Ailts Wiest
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Dear Ms. Ailts Wiest:

The Public Utilities Commission has proposed amendments to ARSD chapter 20:10:27 regarding exchange carriers that provide certain telecommunications services. We have reviewed the proposed rules, scheduled for hearing on January 20, 2011, and approve the rules for legality.

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,

Doug Decker
Code Council

DD:FB
Enclosures

DIRECTIONS FOR SUBMITTING THE FINAL DRAFT

RULES REVIEW MEETING SCHEDULE: The Interim Rules Review Committee will set the tentative meeting schedule for the 2011 interim in March 2011.

A. FINAL DRAFT TO LEGISLATIVE RESEARCH COUNCIL: When the final draft of the adopted rules is brought to this office for signature for legality and for form and style, please include the following items:

1. The edited copy of the first draft;
2. One legible copy of the final draft, to be left here. The final draft should be double spaced, contain only rules being amended, repealed, or adopted, and show changes from current printed rules by means of overstrikes and underscores;
3. The original Form #11 which contains the signature of the officer empowered to adopt the rules or the signatures of a majority of the members of a board or commission which has the rule-making authority; and
4. Copies of the following:
 - a. The minutes of all public hearings, (a summary of the minutes if needed); and
 - b. The affidavit of mailing to Rules Committee members – Form #12.

B. SERVICE ON COMMITTEE: The following information is to be served on the interim Rules Review Committee at least five days before the committee meeting date:

1. The final draft of the adopted rules (three-holed punched and numbered by page);
2. The minutes of the public hearing;
 - a. Include a summary of the hearing if a verbatim transcript is used;
 - b. Include a summary of any subsequent hearing if the public hearing is continued or final action is taken at a later date;
3. A summary of the written comments or copies of the written comments;
4. The Impact Statement on Small Business;
5. The Fiscal Note; and
6. Agency financial resource information if the agency proposes a rule to increase a fee.

First class mail, e-mail, or both should be used (See Form #12).

C. FILING WITH THE SECRETARY OF STATE'S OFFICE (After appearing before the Interim Rules Review Committee)

1. Each agency must complete and sign all documents before filing the certificate of compliance with Chapter 1-26 and the final draft of the rules with the Secretary of State's Office. Although it is not required by statute, the Secretary of State's Office would like to have a copy of the approval signature sheet with the filing of the final draft and the certificate.

CHAPTER 20:10:27

TELECOMMUNICATIONS SWITCHED ACCESS FILING RULES

Section

20:10:27:01 Definitions.

20:10:27:02 Determination of intrastate switched access charges for incumbent local exchange carriers – General Waiver or suspension of rule.

20:10:27:02.01. Determination of intrastate switched access charges for competitive local exchange carriers.

20:10:27:02.02. Exception for determination of switched access rates of competitive local exchange carriers.

20:10:27:03 Costs subject to commission's ratemaking determinations.

20:10:27:04 Uniform system of accounts used for classification – Petition to use generally accepted accounting principles.

20:10:27:05 Separation of switched access costs -- Imputation.

20:10:27:06 Intrastate switched access service tariff -- Recovery of costs -- Return on investment.

20:10:27:07 Filing of intrastate switched access service tariff.

20:10:27:08 Filing of an association switched access service tariff.

20:10:27:09 Merger or acquisition of association switched access service tariff participant.

- 20:10:27:10 Use of computer program -- Petition to use company-specific computer program -- Certification.
- 20:10:27:11 Petition to commission by an incumbent local exchange carrier for exemption from developing company-specific cost-based switched access rates.
- 20:10:27:12 Determination of switched access rates for ~~a company~~ an incumbent local exchange carrier granted an exemption from developing company-specific cost-based switched access rates.
- 20:10:27:13 Determination of billing and collection costs for a company granted an exemption from developing company-specific cost-based switched access rates.
- 20:10:27:14 Historical test year.
- 20:10:27:15 Nonrecurring costs or revenues.
- 20:10:27:16 Inclusion of telecommunications plant under construction or telecommunications plant held for future use in investment base.
- 20:10:27:17 Contracts with deviations.
- 20:10:27:18 List of contracts with deviations to filed -- Form.
- 20:10:27:19 List of contracts with deviations to be filed within 30 days.
- 20:10:27:20 Phase-in of switched access rates.
- 20:10:27:21 Feature group A and B discounts.
- 20:10:27:22 Exemption for high capacity special access services.

20:10:27:23 Other special access services.

Appendix A Transport facility allocation example.

Appendix B Transport facility allocation example.

20:10:27:01. Definitions. Terms defined in SDCL 49-31-1 have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1) "Association," a voluntary telecommunications company association formed by individual telecommunications companies for the purpose of jointly filing and administering a common or uniform switched access tariff;

(2) "Carrier's carrier," a telecommunications company which provides switched access services or facilities to another telecommunications company which in turn uses those services or facilities to provide telecommunications services to the public;

(3) "Competitive local exchange carrier," a telecommunications company that provides local exchange services in an area in which an incumbent local exchange carrier also provides local exchange services;

(4) "Competitive local exchange services," local exchange services that are provided by a competitive local exchange carrier within a competitive service area;

(5) "Competitive service area," a local exchange area within which both an incumbent local exchange carrier and a competitive local exchange carrier provide local exchange services;

~~(3)~~ (6) "Feature group A," a line side termination at the first point of switching;

(4) (7) "Feature group B," a trunk side switching through the use of end office or access tandem switch trunk equipment;

(5) (8) "Feature group D," an access service providing 1+ equal access;

(9) "Generally accepted accounting principles," a widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board;

(6) (10) "Switched access," a telecommunications service which provides part or all of a communications path between the customer of the service and its end user which utilizes subscriber loop, transport, and switching functions;

(7) (11) "Uniform system of accounts for telecommunications companies," a historical financial accounting system, codified at 47 C.F.R. Part 32, prescribed by the federal communications commission, which reports the results of operational and financial events of a telecommunications company in a manner which enables both management and regulators to assess these results within a specified accounting period.

see -
20:10:27:04

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02. Determination of intrastate switched access charges for incumbent local exchange carriers -- General Waiver or suspension of rule.

Chapters 20:10:27 to 20:10:29, inclusive, establish rules for the determination of switched access charges for intrastate switched access services provided by each carrier's incumbent local exchange carrier operating in this state. Charges for switched access services provided by incumbent local exchange carriers shall be computed, assessed, and collected as

provided in chapters 20:10:27 to 20:10:29, inclusive, except as provided in §§ 20:10:27:02.01, 20:10:27:02.02, and 20:10:27:11 to 20:10:27:13, inclusive.

For good cause, the commission may, on its own motion or by application from a carrier's carrier, temporarily waive or suspend any commission rule in chapters 20:10:27 to 20:10:29, inclusive.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02.01. Determination of intrastate switched access charges for competitive local exchange carriers. A competitive local exchange carrier shall charge intrastate switched access rates that do not exceed the rate of 6.042 cents per minute if 15 percent or more of the competitive local exchange carrier's total access lines in South Dakota are in communities of 10,000 inhabitants or more. The switched access rate shall be the same in each of the competitive local exchange carrier's service areas.

A competitive local exchange carrier shall charge intrastate switched access rates that do not exceed the rate of 9 cents per minute if 85 percent or more of the competitive local exchange carrier's total access lines in South Dakota are in communities with populations of less than 10,000 inhabitants. The switched access rate shall be the same in each of the competitive local exchange carrier's service areas.

Source:

General Authority: SDCL 49-1-11, 49-31-1.4, 49-31-4.1, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02.02. Exception for determination of switched access rates of competitive local exchange carriers. If a competitive local exchange carrier believes

that a higher rate than the rate allowed under § 20:10:27:02.01 is justified under price regulation, the carrier may file a cost study in accordance with chapters 20:10:27 to 20:10:29 to determine its fully allocated cost of providing switched access services. In addition to considering the fully allocated cost of providing switched access services, the commission shall consider the other factors in SDCL 49-31-1.4 in its determination of the competitive local exchange carrier's price for switched access services.

Source:

General Authority: SDCL 49-1-11, 49-31-1.4, 49-31-4.1, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:04. Uniform system of accounts used for classification – Petition to use generally accepted accounting principles. Each carrier's carrier shall classify its accounts of telecommunications property, revenues, and expenses as set forth in chapters 20:10:27 to 20:10:29, inclusive, by the method prescribed by the federal communications commission's uniform system of accounts for telecommunications companies in 47 C.F.R. Part 32 (October 1, 1991), [✓] except as provided in §§ 20:10:27:11 to 20:10:27:13, inclusive.

A carrier's carrier may petition the commission to use generally accepted accounting principles instead of the uniform system of accounts. The commission shall grant the petition if the carrier's carrier demonstrates that its use of the uniform system of accounts is unduly burdensome and that it is able to map its accounts to substantially reproduce the process and end result produced by the uniform system of accounts.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:07. Filing of intrastate switched access service tariff. Each carrier's carrier or association shall file an initial tariff for switched access service with the commission. Each carrier's carrier or association that used a cost study in its calculation of its rates shall file cost data in support of its switched access service tariff no less than once every three years. Each carrier's carrier or association may file for a rate change in accordance with SDCL 49-31-12.2 to 49-31-12.4, inclusive. The commission may change or revise any switched access rate or price in accordance with SDCL 49-31-12 and 49-31-12.4.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:11. Petition to commission by an incumbent local exchange carrier for exemption from developing company-specific cost-based switched access rates. ~~A telecommunications company~~ An incumbent local exchange carrier may petition the commission to be exempted from the requirements of developing intrastate switched access rates based on company-specific costs. The burden of proof is on the company to show that it lacks the necessary financial, technical, or managerial resources needed to determine company-specific cost-based intrastate switched access rates or that the additional costs associated with developing company-specific cost-based intrastate switched access rates outweigh any benefit to the consumer or customer.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:12. Determination of switched access rates for ~~a company~~ an incumbent local exchange carrier granted an exemption from developing company-specific cost-based switched access rates. The intrastate switched access

rates of a telecommunications company an incumbent local exchange carrier which is granted its ~~petition for~~ an exemption pursuant to § 20:10:27:11 are based on the costs of all the telecommunications companies with less than 100,000 access lines that determine switched access costs pursuant to chapters 20:10:28 and 20:10:29. Switched access rates for companies incumbent local exchange carriers exempted pursuant to § 20:10:27:11 are calculated by dividing the sum of switched access revenue requirements for cost companies with less than 100,000 access lines for intraLATA and interLATA intrastate switched access traffic by the sum of switched access minutes for those same cost companies for intraLATA and interLATA intrastate switched access traffic.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.