

RECEIVED

BFM 50.10
JUL 25 2007

ADMINISTRATIVE PROCEDURES ACT
FISCAL NOTE
Prepared by Submitting Agency

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

	CODE	NAME
DEPARTMENT	26	Public Utilities Commission
DIVISION	2610	Public Utilities Commission
PROGRAM	26103	Fixed Utilities

PROPOSED RULE: § 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:20:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02, & 20:10:34:10

Hearing Date: August 2nd, 2007

FISCAL IMPACT STATEMENT:

These rules have minimal impact to all entities. Not additional staffing or resources are needed.

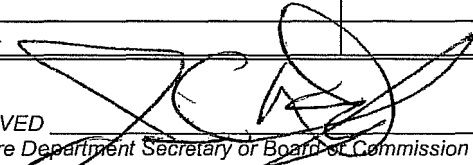
FISCAL NOTE SUMMARY:

COST INCREASES (DECREASES)

State Agencies:	First-Year Impact	Continuous-Yearly Impact
TOTAL	\$0	\$0
Local Subdivisions:		
TOTAL	\$0	\$0
Small Businesses		
TOTAL	\$0	\$0

REVENUE INCREASES (DECREASES)

Revenue Increases (Decreases) State, Local & Small Business :		
TOTAL	\$0	\$0

APPROVED 
Signature Department Secretary or Board of Commission Chairman

DATE 7/20/07

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

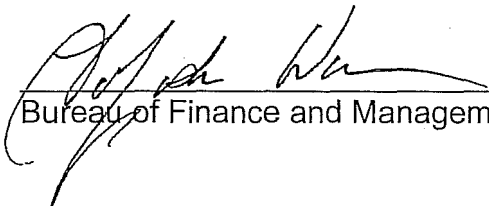
IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed rules §§ 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10,
- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) the Small Business Impact Statement Form

is admitted at Pierre, South Dakota, this 2 day of July, 2007.


Bureau of Finance and Management

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

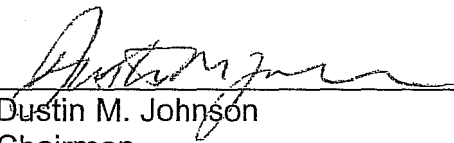
ADMISSION OF SERVICE

Personal service of

(1) Public Utilities Commission's proposed rules §§ 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10; and

(2) all materials incorporated by reference

is admitted at Pierre, South Dakota, this 29th day of June, 2007.



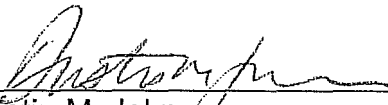
Dustin M. Johnson
Chairman
South Dakota Public Utilities Commission

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, Dustin M. Johnson, Chairman of the Public Utilities Commission, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules §§ 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10.

Dated this 29th day of June, 2007.



Dustin M. Johnson
Chairman
South Dakota Public Utilities Commission

Public Utilities Commission
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 413, 4th Floor, State Capitol, Pierre, South Dakota, on August 2, 2007, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered:

20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10

The proposed rule changes affect telecommunications rules. For 20:10:24:02, the changes add some requirements for applicants requesting a certificate of authority to provide interexchange services in South Dakota, including providing information to customers and the prevention of slamming. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. The change to 20:10:24:04.02 deletes the requirement to maintain on file all tariffs and rates. The reasons for the changes are to comply with newly enacted state law which prohibits the tariffing of certain services and requires notice of materially adverse changes to customers, to provide additional information regarding the application, and to eliminate requirements that are no longer needed.

The change to 20:10:24:04.05 clarifies that any security filed by an interexchange company is only for the benefit of South Dakota customers. The reason for this change is to make it clear that any protections provided by bonds or other security apply only to customers in South Dakota.

The changes to 20:10:24:05 add requirements for alternative operator services regarding notification to customers prior to the customer incurring charges for a call. The changes also delete the requirement to file tariffs. The reasons for the changes are to ensure that customers can find out what the charges will be when using alternative operator services and to comply with newly enacted state law regarding tariff filings.

ARSD 20:10:32:03 applies to applications for certificates of authority to provide local exchange services in South Dakota. The changes add some additional requirements, including providing information to customers. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. The reasons for the changes are to comply with newly enacted state law which prohibits the tariffing of certain services and requires notice of materially adverse changes to customers, to provide additional information regarding the application, and to eliminate requirements that are no longer needed.

Proposed rule 20:10:32:06.01 allows the Commission to require some form of security as a condition to receiving a certificate of authority. The reason for the proposed rule is to provide additional protection to South Dakota customers in the event the company is unable to provide services.

The changes to 20:10:32:10 allow the Commission to waive the provisioning of a requirement for local exchange service if it is not necessary based on the type of service being provided. The reason for the change is that, depending on the type of services provided, a company may not need to comply with all of the requirements.

The changes to 20:10:32:29 require a petition for arbitration of an interconnection agreement to be accompanied by written testimony, exhibits, cost support, request for protective order, and proposed procedural schedule. For 20:10:32:30, responses to arbitrations must contain the information that is required for petitions for arbitrations. The change to 20:10:32:39 requires a petition for suspension or modification of an interconnection requirement to include written testimony and exhibits. The reason for the changes is to make it easier to comply with statutory deadlines for decisions by requiring more information at the time of the filing of the application.

Proposed rule 20:10:32:31.01 is a new rule which sets forth how a person who is not a party to an arbitration may participate. The reason for the rule is to allow a non-party to be able to state that party's position on issues that have arisen in the arbitration.

The change to 20:10:32:54 clarifies that an eligible telecommunications carrier must continue to file improvement plans after the filing of the initial plan. The reason for this change is to ensure that carriers continue to file improvement plans. The change to 20:10:32:55 requires the annual lifeline report to be filed with the annual certification. The reason for this change is to consolidate related filings.

For 20:10:33:22, the change requires local exchange companies to notify customers in advance of all interruptions due to maintenance, if possible, instead of just for "extended" interruptions. The reasons for this change include the difficulty in defining "extended" and to provide customers with notifications of all maintenance interruptions if possible.

Proposed rule 20:10:34:02.02 sets forth the requirements for notifying customers when a new telephone company acquires the subscriber base of another carrier. The acquiring carrier must provide to the subscriber the rates, terms and conditions of service as well as other information and give notice 30 days before the transfer which would allow the subscriber sufficient time to choose a new carrier. The reason for this change is to provide notice to customers when a telephone company is acquired by another company.

For 20:10:34:10, the changes regard how customers are notified of changes in rates, terms and conditions of service. The reason for the changes is to reflect recent statutory changes which require notification of materially adverse changes.

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 August 13, 2007, 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/commission/dockets/rulemaking/2007/rm07-001/rm07-001.htm>

FORM 5, BFM 50.10

(NOTE: A copy of this form may be obtained from the Bureau of Finance and Management. If your rules have a negative fiscal impact on a local government, such as a county or a school district, you must direct the Bureau of Finance and Management to send a copy of its fiscal note to the organizations listed in SDCL 1-26-4.2.)

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

	CODE	NAME
DEPARTMENT	26	Public Utilities Commission
DIVISION	2610	Public Utilities Commission
PROGRAM	26103	Fixed Utilities

PROPOSED RULES: 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:30, 20:10:32:31.01, 20:10:32:39, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10

Hearing Date: August 2, 2007

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.) There is no impact on state or local governments. For small businesses that appear before the Commission, some rules will result in decreased costs and some rules will result in increased costs. This is explained in more detail below.

FISCAL NOTE SUMMARY:

List state agencies of local governmental subdivisions affected.

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
	0	0
TOTAL	0	0

APPROVED  DATE 6/29/07
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, and 5) small business impact statement

EXPLANATION OF RULES EFFECT AND FISCAL IMPACT

Small companies who apply for a certificate of authority to provide telephone service in South Dakota will need to comply with the proposed revised application requirements. For applicants seeking authority to provide interexchange service, the changes to 20:10:24:02 add some requirements, including providing information to customers and how the applicant intends to prevent slamming. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. The changes to 20:10:32:03 apply to applications for certificates of authority to provide local exchange services in South Dakota. The changes regard adding some additional requirements regarding providing information to customers. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. Proposed changes to 20:10:24:05 will affect small businesses that provide operator services. These changes add requirements regarding notification to customers prior to the customer incurring charges for a call. The changes also delete the requirement to file tariffs. In addition, the change to 20:10:24:04.02 deletes the requirement to maintain on file all tariffs and rates.

Fiscal Impact: No fiscal impact. The companies will still be required to keep information regarding terms, conditions, and rates for services even when they no longer have to file the information as tariffs with the Commission.

Applicants for certificates of authority will also be affected by changes to 20:10:24:04.05 which clarifies that any security filed by an applicant to provide interexchange service is only for the benefit of South Dakota customers. Proposed rule 20:10:32:06.01 allows the Commission to require some form of security as a condition to receiving a certificate of authority for local exchange service.

Fiscal Impact: No fiscal impact. Bonds are already required if applicant is requiring prepayments. These changes provide clarification.

Small business applicants for local exchange service may also be affected by the changes to 20:10:32:10 which allows the Commission to waive the provisioning of a requirement for local exchange service if it is not necessary, based on the type of service being provided.

Fiscal Impact: No fiscal impact. The change clarifies how waivers can be granted.

Small telephone companies that already have authority to operate in South Dakota will also be affected. The changes to 20:10:32:29 require a petition for arbitration regarding interconnection agreements to be accompanied by written testimony, exhibits, cost support, request for protective order, and proposed procedural schedule. For 20:10:32:30, responses to arbitrations must contain the information that is required for petitions for arbitrations. Proposed rule 20:10:32:31.01 is a new rule which sets forth how a person who is not a party to an arbitration may participate. The change to 20:10:32:39 requires a petition for suspension or modification of an interconnection requirement to include written testimony and exhibits.

Fiscal Impact: No fiscal impact. The revisions change the date when companies are required to file certain material.

The change to 20:10:32:54 clarifies that an eligible telecommunications carrier (ETC) must continue to file improvement plans after the filing of the initial plan. The change to 20:10:32:55 requires the annual lifeline report to be filed with the annual certification. These changes will affect all small telephone companies that have been designated as ETCs.

Fiscal Impact: No fiscal impact. The rule is being clarified regarding the filing of improvement plans and lifeline reports

For 20:10:33:22, the change requires local exchange companies to notify customers in advance of all interruptions due to maintenance, if possible.

Fiscal Impact: No fiscal impact. It is reasonable to assume that customers were already receiving notice.

The addition of 20:10:34:02.02 sets forth the requirements for notifying customers when a new telephone company acquires the subscriber base of another carrier. This will affect small telephone companies that acquire subscribers from another carrier.

Fiscal Impact: No fiscal impact. These rules track the FCC rules so companies were already providing this information.

Changes to 20:10:34:10 reflect statutory changes. The changes regard how telephone customers are notified of changes in rates, terms, and conditions of service.

Fiscal Impact: No fiscal impact. Majority of companies already providing notification of materially adverse changes.

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.)

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:

Small companies who apply for a certificate of authority to provide telephone service in South Dakota will need to comply with the proposed revised application requirements. For applicants seeking authority to provide interexchange service, the changes to 20:10:24:02 add some requirements, including providing information to customers and how the applicant intends to prevent slamming. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. The changes to 20:10:32:03 apply to applications for certificate of authority to provide local exchange services in South Dakota. The changes regard adding some additional requirements regarding providing information to customers. The changes also delete some requirements, including the filing of tariffs, cost support for certain rates, and organizational information. Proposed changes to 20:10:24:05 will affect small businesses that provide operator services. These changes add requirements regarding notification to customers prior to the customer incurring charges for a call. The changes also delete the requirement to file tariffs. In addition, the change to 20:10:24:04.02 deletes the requirement to maintain on file all tariffs and rates.

Applicants for certificates of authority will also be affected by changes to 20:10:24:04.05 which clarifies that any security filed by an applicant to provide interexchange service is only for the benefit of South Dakota customers. Proposed rule 20:10:32:06.01 allows the Commission to require some form of security as a condition to receiving a certificate of authority for local exchange service.

Small business applicants for local exchange service may also be affected by the changes to 20:10:32:10 which allows the Commission to waive the provisioning of a requirement for local exchange service if it is not necessary, based on the type of service being provided.

Small telephone companies that already have authority to operate in South Dakota will also be affected. The changes to 20:10:32:29 require a petition for arbitration regarding interconnection agreements to be accompanied by written testimony, exhibits, cost support, request for protective order, and proposed procedural schedule. For 20:10:32:30, responses to arbitrations must contain the information that is required for petitions for arbitrations. Proposed rule 20:10:32:31.01 is a new rule which sets forth how a person who is not a party to an arbitration may participate. The change to 20:10:32:39 requires a petition for suspension or modification of an interconnection requirement to include written testimony and exhibits.

The change to 20:10:32:54 clarifies that an eligible telecommunications carrier (ETC) must continue to file improvement plans after the filing of the initial plan. The change to 20:10:32:55 requires the annual lifeline report to be filed with the annual certification. These changes will affect all small telephone companies that have been designated as ETCs.

For 20:10:33:22, the change requires local exchange companies to notify customers in advance of all interruptions due to maintenance, if possible.

The addition of 20:10:34:02.02 sets forth the requirements for notifying customers when a new telephone company acquires the subscriber base of another carrier. This will affect small telephone companies that acquire subscribers from another carrier.

Changes to 20:10:34:10 reflect statutory changes. The changes regard how telephone customers are notified of changes in rates, terms and conditions of service.

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: In addition to changes made in response to changes in state law, changes are also being made for other reasons as explained below.

4. Why is the rule(s) needed?

Some of the rule changes are needed to make the rules consistent with statutory changes. Senate Bill 22 prohibits the filing of tariffs for competitive telecommunications services, sets forth how customers can receive information regarding services, and requires notice of materially adverse changes to services. *See* 20:10:24:02, 20:10:24:04.02, 20:10:24:05, 20:10:32:03, and 20:10:34:10. Other changes to the rules regarding certificates of authority are being made to provide the information necessary to evaluate applications for authority and to provide additional notice and other protections for customers. *See* 20:10:24:02, 20:10:24:04.05, 20:10:24:05; 20:10:32:03, 20:10:32:10, and 20:10:32:06.01. Prefiled testimony is being required to accompany petitions for arbitrations or suspensions in order to help meet statutory deadlines for decisions. *See* 20:10:32:29, 20:10:32:30, and 20:10:32:39. Another rule regarding arbitrations, 20:10:32:31.01, is needed to clarify how a non-party may participate in such proceedings. The changes to one of the eligible telecommunications (ETC) rules, 20:10:32:54, is needed to clarify that an ETC must continue to file improvement plans after the initial two year period in order to be certified to receive federal universal service funds. The other ETC rule change, 20:10:32:55, is just a procedural change requiring the filing of the ETC's lifeline report with its ETC certification. The change to 20:10:33:22 is needed to

make the rule clearer as to when notification is required. The change to the slamming rules, 20:10:34:02:02, tracks the FCC slamming provision regarding transfers of subscribers to another carrier. This rule sets out in detail the steps an acquiring carrier must take in order to notify subscribers of the change in providers.

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

Small businesses that apply for certificates of authorities to provide telephone service and existing telephone companies that meet the definition of a small business would be subject to the rules.

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?

Changes are being made to the rules regarding companies that have been designated as eligible telecommunications carriers. They must continue to file improvement plans in order to receive certification which allows the carrier to receive federal universal service funds.

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

The annual improvement plans require an ETC to keep track of where it provides service, complaints, unfulfilled service requests, and outages.

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 The business should have employees who keep track of these requirements.

Although some carriers employ consultants to file annual certifications.

- 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

The Commission believes that these changes are necessary for the reasons set forth above and are the least intrusive and least costly methods to achieve the Commission's objectives.

Yes - please explain _____

6/25/07
Dated


Authorized Signature

Public Utilities Commission
Name of Agency