

ARTICLE 20:10
PUBLIC UTILITIES

Chapter

- 20:10:01 General rules of practice.
- 20:10:02 General motor carrier rules.
- 20:10:03 Motor carriers under ICC.
- 20:10:04 Motor carriers not under ICC.
- 20:10:05 General telecommunications company rules.
- 20:10:06 Telecommunications records.
- 20:10:07 Telecommunications subscriber billing rules.
- 20:10:08 Telecommunications credit.
- 20:10:09 Refusal of telecommunications service.
- 20:10:10 Disconnection of telecommunications service.
- 20:10:11 Public warehouses.
- 20:10:12 Grain dealers.
- 20:10:13 Public utilities rate filing rules.
- 20:10:14 Procedure rules for public utilities, Repealed or transferred.
- 20:10:15 General gas and electric rules.
- 20:10:16 Gas and electric utility records and public information rules.
- 20:10:17 Gas and electric customer billing rules.
- 20:10:18 Gas and electric service rules.
- 20:10:19 Establishment of gas and electric credit.
- 20:10:20 Refusal and disconnection of gas and electric service.
- 20:10:21 Energy facility plans.
- 20:10:22 Energy facility siting rules.

20:10:23 Gas and electric advertising rules.

20:10:24 Telecommunications services Interexchange carrier and classification rules.

20:10:25 Telecommunications facility construction notice rules, Repealed.

20:10:26 Master metering variance rules.

20:10:27 Telecommunications switched access filing rules.

20:10:28 Telecommunications separations procedures.

20:10:29 Telecommunications switched access charges.

20:10:30 Assignment of N11 dialing codes.

20:10:31 Assessment of fees for intrastate gas pipeline operators.

20:10:32 Local exchange service competition.

20:10:33 Service standards for telecommunications companies.

20:10:34 Prohibition against unauthorized ~~switching~~ changing of ~~carriers~~
telecommunications company and charging for unauthorized services.

CHAPTER 20:10:34

PROHIBITION AGAINST UNAUTHORIZED ~~SWITCHING~~ CHANGING OF ~~CARRIERS~~ TELECOMMUNICATIONS COMPANY AND CHARGING FOR UNAUTHORIZED SERVICES

Section

20:10:34:01 ~~Definitions~~ Repealed.

20:10:34:02 ~~Requirements for independent third party verification~~ Repealed.

20:10:34:02.01. Authorization methods.

20:10:34:03 Letter of agency form and content.

20:10:34:04 ~~Letter of agency form and content~~ — Exception for checks.

20:10:34:04.01 Electronic authorization.

20:10:34:05 Complaints of unauthorized ~~switching~~ changing of a telecommunications

company.

20:10:34:06 False, misleading, or deceptive statements prohibited.

20:10:34:07 Refund or credit of charges billed by unauthorized telecommunications

company -- Payment of one thousand dollars for unauthorized change --

Opportunity for hearing.

20:10:34:08 Subscriber telecommunications bills -- Charges for change of

telecommunications company.

20:10:34:09 Billing requirements.

20:10:34:10 ~~Authorized products or services~~ Notification of increase in rates.

20:10:34:10.01 Complaints of unauthorized billing of products or services.

20:10:34:11 Refund or credit of unauthorized charges -- Payment of one thousand dollars

-- Opportunity for hearing.

20:10:34:01. Definitions. ~~Terms defined in SDCL 49-31-1 have the same meaning in this chapter. In addition, terms used in this chapter mean:~~

~~(1) "Subscriber," the person named on the billing statement or account, or any other person authorized to make changes in the providers of telephone exchange service or telephone toll service Repealed.~~

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

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

Law Implemented: ~~SDCL 37-30A-9, 49-31-3, 49-31-77, 49-31-85.~~

20:10:34:02. Requirements for independent third-party verification. ~~When an independent third-party verification company obtains a subscriber's oral confirmation regarding a change of a designated telecommunications company for interexchange or local exchange telecommunications services, the third-party verification shall include:~~

~~(1) A statement that the purpose of the call is to verify the subscriber's intent to switch to the newly requested telecommunications company. The newly requested interexchange or local telecommunications company must be clearly identified to the subscriber. Reference to use of another telecommunications company's network or facilities, if stated, must be secondary in nature to the prominent identification of the telecommunications company which will be providing service and setting the rates for the subscriber's service;~~

~~(2) Confirmation that the person whose authorization for a telecommunications company change is being verified is the subscriber on the account or a person authorized by the subscriber to make~~

~~decisions regarding the telephone account on behalf of the subscriber, whether that subscriber is an individual person or a business;~~

~~(3) Verification data unique to the subscriber such as the subscriber's date of birth; and~~

~~(4) The name and toll free telephone number of the newly requested telecommunications company.~~

~~The third party verification company shall electronically record, in its entirety, the telephone call that confirms the subscriber's change of a designated telecommunications company. The electronic recording shall be retained by the third party verification company for 12 months Repealed.~~

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

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

Law Implemented: ~~SDCL 37-30A-9, 49-31-3, 49-31-77, 49-31-85.~~

20:10:34:02.01. Authorization methods. No telecommunications company shall change a designated telecommunications company for interexchange or local exchange telecommunications services unless the change has been confirmed by written authorization in accordance with § 20:10:34:03, by the use of an independent third-party verification company in accordance with SDCL 49-31-90, or by electronic authorization in accordance with § 20:10:34:04.01.

Source:

General Authority: SDCL 49-31-89.

Law Implemented: SDCL 49-31-89, 49-31-90, 49-31-91.

20:10:34:03. Letter of agency form and content. A letter of agency obtained from a subscriber for a change of the subscriber's telecommunications company shall be a document the sole purpose of which is to authorize the change of a telecommunications company. It must be signed and dated by the subscriber of the telephone line requesting the change. It may not be combined with inducements of any kind on the same document. At a minimum, the letter of agency must be printed with a type of sufficient size to be clearly legible and must contain clear and unambiguous language that confirms:

- (1) The subscriber's billing name and address and each telephone number to be covered by the change order;
- (2) The decision to change the telecommunications company from the current telecommunications company to the prospective telecommunications company;
- (3) That the subscriber designates the prospective telecommunications company to act as the subscriber's agent for the telecommunications company change;
- (4) That the subscriber understands that only one interexchange telecommunications company may be designated as the subscriber's ~~interstate~~ interLATA primary interexchange telecommunications company, only one company may be designated as the subscriber's ~~intrastate~~ intraLATA primary interexchange company, and only one company may be designated as the subscriber's local exchange company;

- (5) The telecommunications company designated as the subscriber's interexchange or local exchange company must be the company directly setting the rates for the subscriber;
- (6) That the subscriber understands that any change in a subscriber's interexchange or local exchange service company may involve charges to the subscriber. The approximate amount of each charge shall be specified in the letter of agency;
- (7) Letters of agency may not suggest or require that a subscriber take some action in order to retain the subscriber's current telecommunications ~~carrier~~ company;
- (8) If any portion of a letter of agency is translated into another language then each portion of the letter ~~or~~ of agency must be translated into that language. Each letter of agency must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the letter of agency; and
- (9) A toll-free number ~~that the subscriber may call to verify if the change has occurred~~ of the prospective telecommunications company.

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

General Authority: SDCL ~~49-31-5(2), 49-31-77, 49-31-85~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-76, 49-31-85~~ 49-31-89.

20:10:34:04. Letter of agency form and content -- Exception for checks. Notwithstanding § 20:10:34:03, the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in § 20:10:34:03 and the necessary information to make the check a negotiable instrument. The letter of agency check may not contain any promotional language or material. The letter of agency check shall contain, in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a change in its telecommunications company by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.

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

General Authority: SDCL ~~49-31-5(2), 49-31-77, 49-31-85~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89.

20:10:34:04.01. Electronic authorization. Telecommunications companies electing to confirm changes electronically shall establish one or more toll-free telephone numbers exclusively for that purpose. Electronic authorization to change a designated telecommunications company for interexchange or local exchange telecommunications services shall be placed from the telephone number that the subscriber is requesting the company serve and shall confirm the information required in § 20:10:34:03. Calls to the toll-free number shall connect a subscriber to a voice response unit, or similar mechanism that records the required information regarding the change of a designated telecommunications company, including automatically recording the originating automatic numbering identification.

Source:

General Authority: SDCL 49-31-89.

Law Implemented: SDCL 49-31-89.**20:10:34:05. Complaints of unauthorized ~~switching~~ changing of a telecommunications company.**

Upon receipt of an oral or written complaint alleging an unauthorized ~~switch in~~ change of a subscriber's telecommunications company from the subscriber, the subscriber's original pre-subscribed telecommunications company, the subscriber's local exchange service company, or from the commission or its staff on behalf of a subscriber or applicant, the telecommunications company that initiated the change shall ~~investigate the complaint and advise the party requesting the investigation of the results. When advising the subscriber or party requesting the investigation of the results, the telecommunications company that initiated the change shall provide documentation, without cost to the commission or the subscriber, that confirms the subscriber's valid authorization to switch telecommunications companies. This documentation shall be provided within 30 days from the receipt of the complaint. The burden is on the telecommunications company that initiated the change to produce documentation that valid authorization was obtained from the subscriber~~ provide documentation, within 30 days and without cost, showing that the change was authorized. If a telecommunications company fails to provide the documentation, the change ~~in~~ of the telecommunications company is considered invalid.

The telecommunications company shall also notify the subscriber that if the subscriber is not satisfied with the documentation provided by the company, the subscriber may contact the commission. The telecommunications company shall provide the subscriber with the commission's toll free number.

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

General Authority: SDCL ~~49-31-77; 49-31-85; 49-31-5 (2)~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89, 49-31-90, 49-31-92, 49-31-93.

20:10:34:06. False, misleading, or deceptive statements prohibited. When obtaining or verifying a subscriber's oral order for a change of a designated telecommunications company for interexchange or local exchange telecommunications services, the telecommunications company or the third-party verification company may not make any statements that are false, misleading, or deceptive or fail to state material information with respect to the provisioning of the service.

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

General Authority: SDCL ~~49-31-77; 49-31-85~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89.

20:10:34:07. Refund or credit of charges billed by unauthorized telecommunications company --

Payment of one thousand dollars for unauthorized change -- Opportunity for hearing. A telecommunications company which initiates a telecommunications ~~carrier~~ company change without authorization from the subscriber shall issue to the subscriber a full credit or refund of the entire amount of the subscriber's telephone charges which ~~were paid by the subscriber and~~ are attributable to ~~telephone service~~ telecommunications services from the unauthorized telecommunications company. ~~If the unauthorized services were billed but not paid by the subscriber, the subscriber is not liable for the billed telephone services provided by the unauthorized telecommunications carrier.~~ A telecommunications company which initiates a telecommunications ~~carrier~~ company change without authorization from the

subscriber is liable for any charges from another telecommunications company to re-establish service or to change the subscriber's pre-subscribed company. The appropriate credit or refund must be issued within a period not to exceed 60 days from the date it is determined that the ~~switch~~ change was unauthorized.

In addition, the telecommunications company which initiates a telecommunications company change without proper authorization shall pay the subscriber one thousand dollars regardless of whether the subscriber has contacted the commission. Failure of the telecommunications company to pay the subscriber one thousand dollars for an unauthorized change may result in a civil fine as authorized by SDCL 49-31-94. If there is a dispute as to whether the change was properly authorized, the subscriber or telecommunications company may request a hearing before the commission pursuant to SDCL Chapter 1-26.

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

General Authority: SDCL ~~49-31-77, 49-31-85, 49-31-5(4)~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89, 49-31-93, 49-31-94.

20:10:34:08. Subscriber telecommunications bills -- Charges for change of telecommunications company. A bill to a subscriber reflecting any charge ~~to that subscriber~~ for a change in the subscriber's telecommunications company shall prominently display the name of the new telecommunications company and all charges to the subscriber for changing ~~a~~ to the new telecommunications company.

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

General Authority: SDCL ~~49-31-5(3), 49-31-77, 49-31-85~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89.

20:10:34:09. Billing requirements. A subscriber's bill shall contain a clear, concise description of services being billed. The bill shall contain the name of the telecommunications company requesting billing, and a toll-free telephone number where the subscriber may call with billing questions.

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

General Authority: SDCL 49-31-77, 49-31-85, 49-31-89.

Law Implemented: SDCL ~~37-30A-9~~, 49-31-3, 49-31-77, 49-31-85, 49-31-89.

20:10:34:10. ~~Authorized products or services~~ Notification of increase in rates. ~~Any products or services listed on a subscriber's bill must be authorized by the subscriber.~~ Prior to changing any rate, term, or condition of service, a telecommunications company shall notify the subscriber of the change if it results in an increase in rates.

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

General Authority: SDCL 49-31-77, 49-31-85, 49-31-89.

Law Implemented: SDCL ~~37-30A-9~~, 49-31-3, 49-31-77, 49-31-85, 49-31-89.

20:10:34:10.01. Complaints of unauthorized billing of products or services. Upon receipt of an oral or written complaint alleging the billing of unauthorized products or services from a subscriber, the subscriber's local exchange service company, or from the commission or its staff on behalf of a subscriber or applicant, the telecommunications company that initiated the billing shall provide documentation, within 30 days and without cost, that the billing was authorized. If a telecommunications company fails to provide the documentation, the charge is considered invalid.

The telecommunications company shall also notify the subscriber that if the subscriber is not satisfied with the documentation provided by the company, the subscriber may contact the commission. The telecommunications company shall provide the subscriber with the commission's toll free number.

Source:

General Authority: SDCL 49-31-89.

Law Implemented: SDCL 49-31-89, 49-31-93.

20:10:34:11. Refund or credit of unauthorized charges -- Payment of one thousand dollars -- Opportunity for hearing. A telecommunications company which ~~charges~~ initiates billing for a product or service without authorization from the subscriber shall issue to the subscriber a full credit or refund of the entire amount of the unauthorized charges. The credit or refund must be issued within a period not to exceed 60 days from the date it is determined that the charge was unauthorized.

In addition, the telecommunications company shall pay the subscriber one thousand dollars regardless of whether the subscriber has contacted the commission. Failure of the telecommunications company to pay the subscriber one thousand dollars for an unauthorized charge may result in a civil fine as authorized by SDCL 49-31-94. If there is a dispute as to whether the charge was authorized, the subscriber or telecommunications company may request a hearing before the commission pursuant to SDCL Chapter 1-26.

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

General Authority: SDCL ~~49-31-77, 49-31-85~~ 49-31-89.

Law Implemented: SDCL ~~37-30A-9, 49-31-3, 49-31-77, 49-31-85~~ 49-31-89, 49-31-93, 49-31-94.