

RM99-00Z

In the Matter of \_\_\_\_\_

IN THE MATTER OF THE  
ESTABLISHMENT OF REVISED RULES

## Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

11/3/99 Opened;  
 11/4/99 Expedient Filing;  
 12/8/99 Fiscal Note signed by James A. Burg;  
 12/8/99 Commission of Service signed by Dave Volk (Comm. + Reg);  
 12/8/99 Notice of Hearing Period signed by Dave Volk (Comm. + Reg);  
 12/9/99 Notice of Public Hearing to Adopt Rules;  
 12/9/99 Commission of Service signed by Jo Dell (B&M);  
 12/9/99 Commission of Service signed by Gloria Bump (LRC);  
 12/10/99 Affidavit of Mailing Notice to Interested Parties;  
 12/13/99 Fiscal Note signed by Curt Emerson (B&M);  
 1/7/00 Comments of MCI;  
 1/7/00 Comments of USP;  
 1/7/00 Affidavits of Publication from Capital Journal and Rapid City Press;  
 1/21/00 Affidavits of Publication from Capital Journal and Rapid City Press;  
 2/3/00 Affidavit;  
 2/18/00 Approval of Rules;  
 4/16/00 Certificate;  
 4/19/00 Docket Closed.

**South Dakota Public Utilities Commission**

**WEEKLY FILINGS**

**For the Period of October 28, 1999 through November 3, 1999**

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 filing.

Phone: 605-773-3705 Fax: 605-773-3809

**CONSUMER COMPLAINTS**

**CT99-051 In the Matter of the Complaint filed by Patrick L. Corbin, Rapid City, South Dakota, against U S WEST Communications, Inc. Regarding Delayed Installation of Telephone Service.**

Mr. Corbin states that on September 8, 1999, he requested service installation for their new address. U S WEST promised an installation date of September 10, 1999. They still do not have service. The Complainant requests that U S WEST should establish one person to be responsible for an account, compensate the Complainants for their time and inconvenience, and make U S WEST aware that "they are dealing with human beings who have feelings and needs."

Staff Analyst: Leni Healy

Staff Attorney: Karen Cremer

Date Filed: 11/01/99

Intervention Deadline: NA

**CT99-052 In the Matter of the Complaint filed by Scott and Tami Jung, Aberdeen, South Dakota, against Qwest Communications, Inc. Regarding Unauthorized Switching of Services.**

On November 2, 1999, the Commission received a complaint from Scott and Tami Jung alleging that their long distance service was switched without authorization. The Complainants request compensation deemed to be fair and legal.

Staff Analyst: Leni Healy

Staff Attorney: Camron Hoseck

Date Filed: 11/02/99

Intervention Deadline: NA

**RULEMAKING**

**RA99-002 In the Matter of the Establishment of Revised Rules.**

On November 1, 1999, the Commission voted to open a rulemaking docket for purposes of amending certain rules regarding telecommunications, electricity and natural gas. Proposed changes to telecommunications rules, for example, include amending the Commission's probable cause determination procedures, certificate of

authority territory designations, advertising included with gas and electric bills, and modification of the scope and application of general telecommunications company rules.

Staff Analyst: All Staff

Staff Attorney: Camron Hiseck

Date Docketed: 11/03/99

## TELECOMMUNICATIONS

**TC99-103** In the Matter of the Filing by U S WEST Communications, Inc. for Approval of an Interconnection Agreement between U S WEST Communications, Inc. and JATO Communications Corp.

U S WEST Communications, Inc. and JATO Communications, Corp. filed an interconnection agreement for Commission approval on October 28, 1999. The agreement is negotiated and sets forth the terms, conditions and prices under which U S WEST agrees to provide services for resale, certain unbundled network elements, ancillary functions and additional features to JATO Communications Corp. for its offering and provisioning of telecommunications services. The agreement also sets forth the terms, conditions and prices under which the parties agree to interconnect and pay reciprocal compensation for the exchange of local traffic.

Any party wishing to comment on the amendment to the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than November 15, 1999. Parties to the amendment may file written responses to the comments within twenty days of service of the comments.

Staff attorney: Camron Hiseck

Date Filed: 10/28/99

Comments due: 11/15/99

You may receive this filing and other PUC publications via our website or via internet e-mail. You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc/>



Andrew Isar, Director - State Affairs

Telecommunications  
Resellers  
Association

Suite 4  
3220 Uddenberg Lane NW  
Gig Harbor, WA 98335

Tel: 253-851-6700  
Fax: 253-851-6474  
E-mail: aisar@harbor-group.com

Cia Priority Mail

5 November 1999

Mr. William Bullard, Jr.  
Executive Secretary  
Public Utilities Commission of South Dakota  
State Capitol  
500 East Capitol Street  
Pierre, South Dakota 57501-5070

RECEIVED

NOV 12 1999

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

RE: IN THE MATTER of the Establishment of Revised Rules, Docket No. RM99-002

Dear Mr. Bullard:

The Telecommunications Resellers Association ("TRA"), respectfully requests it be granted the right to file comments in and be placed on the service list for the above-referenced proceeding.


The person to whom information should be sent is:

Andrew O. Isar  
3220 Uddenberg Lane, Suite 4  
Gig Harbor, WA 98335  
Telephone: 253.851.6700  
Facsimile: 253.851.6474

Questions may be directed to the undersigned.

Sincerely,

TELECOMMUNICATIONS RESELLERS ASSOCIATION

  
Andrew O. Isar

LAW OFFICES  
**MAY, ADAM, GERDES & THOMPSON LLP**  
503 SOUTH PIERRE STREET  
P.O. BOX 160  
PIERRE, SOUTH DAKOTA 57501-0160

STEVEN W. HARTEN 1991-1993  
KARYN W. SMITH 1993-1996  
TAMARA C. ADAM  
DAVID H. GERDES  
CHARLES M. THOMPSON  
ROBERT E. ANDERSON  
BRENDA A. WILSON  
SANDRA M. ENELL  
MICHAEL J. SHAW  
NIGEL FULTON

November 22, 1999

OF COUNSEL  
WARREN W. MAY

TELEPHONE  
605.224-6800  
TELECOPIER  
605.224-6339  
E-MAIL  
dag@nagt.com

**RECEIVED**

NOV 23 1999

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Camron Hoseck  
Staff Attorney  
Public Utilities Commission  
State Capitol  
500 East Capitol  
Pierre, South Dakota 57501

RE: MCI WORLDCOM MISCELLANEOUS  
Our file: 0175.5

Dear Camron:

I note that the Commission has opened a rule making docket, RM99-002. Please put me on the mailing list for the draft proposed rules when they are noticed for hearing. Thank you very much.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

By: 

DAG:mw

cc: Michel Murray

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

	CODE	NAME
DEPARTMENT	13	Department of Commerce & Regulation
DIVISION	139	Public Utilities Commission
PROGRAM	1393	Fixed Utilities Division

PROPOSED RULE 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

Hearing Date January 10, 2000

**FISCAL NOTE SUMMARY:**

List state agencies of local governmental subdivisions affected.

**COST INCREASES (DECREASES)**

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

APPROVED

*James A. Burg*  
 Signature Department Secretary or Board or Commission Chairman

DATE

*12/1/99*

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.

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or emission, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

**Source:** 2 SDR 56, effective February 2, 1976; transferred from § 20:14:15, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Service of complaint, § 20:10:01:09.

**20:10:17:03. Information on bills.** Bills provided to customers for electric and gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable;
- (10) A statement that customer information is available upon request and where it can be obtained;
- ~~(11) A statement that the customer is responsible for payment of all charges for service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

**Source:** 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-3, 49-34A-4, 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service – Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

(1) The name, address, and telephone number of the applicant;

(2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;

(3) If the applicant is a corporation:

(a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;

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

(c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

Source: 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-3.

Law Implemented: SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (16) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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

## EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In Section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

Since the reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities, there are no fiscal impacts on state agencies or local governmental subdivisions.

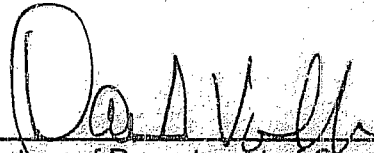
IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:00, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03, and
- (2) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 8<sup>th</sup> day of December, 1999.

  
Secretary of Department of Commerce and Regulation

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or omission, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:14:15, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1988.

General Authority: SDCL 49-1-11, 49-34A-4.

Law Implemented: SDCL 49-1-11, 49-13-1, 49-34A-4.

Cross-Reference: Service of complaint, § 20:10:01:09.

20:10:17:03. Information on bills. Bills provided to customers for electric and gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if applicable;

applicable;

(8) If an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;

(9) Tax, fuel, or power adjustment clause separately itemized, if applicable;

(10) A statement that customer information is available upon request and where it can be obtained;

(11) A statement that the customer is responsible for payment of all charges for service rendered.

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

**Source:** 3 SDR 2, effective July 19, 1975; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-3, 49-34A-4, 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service -- Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

Source: 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-3.

Law Implemented: SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for information purposes only.

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

**General Authority:** SDCL 49-31-76.


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

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, David Volk, Secretary of Department of Commerce and Regulation, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

Dated this 8th day of December, 1999.

  
Secretary of Department of Commerce and Regulation

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or omission, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

**Source:** 2 SDR 56, effective February 2, 1976; transferred from § 20:10:1 15;  
12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1,  
1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Service of complaint, § 20:10:01:09.

**20:10:17:03. Information on bills.** Bills provided to customers for electric and  
gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if  
applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an  
estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable;
- (10) A statement that customer information is available upon request and where  
it can be obtained;
- (11) ~~A statement that the customer is responsible for payment of all charges for  
service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

**Source:** 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-3, 49-34A-4, 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service — Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

Source: 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service –**

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

- (1) The applicant's name, address, telephone number, facsimile number, E-mail address, and whether the applicant is a sole proprietorship, partnership, corporation, limited liability corporation, or limited liability partnership;
- (2) If a sole proprietorship, the full name and business address of its owner; if a partnership, the full name and business address of each partner; if a corporation, a listing of the full name and business address of each corporate officer and director; if a limited liability corporation, the full name and business address of each member, or, if a limited liability partnership, the full name and business address of each partner;
- (3) The name under which applicant will provide local exchange services if different than in subdivision (1) of this section;
- (4) If a corporation:
  - (a) The location of its principal office, if any, in this state and the name and address of its current registered agent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

(16) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20.10.32.15 and applicant's plans for meeting the service obligations;

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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

Public Utilities Commission  
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered

20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory process and simplify billings by gas and electric utilities.

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 January 21, 2000, 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  
FROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03,
- (2) the notice of hearing, and
- (3) the fiscal note

is hereby admitted at Pierre, South Dakota, this 9<sup>th</sup> day of December, 1999.

  
Bureau of Finance and Management

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rule, practice, or omission, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

Source: SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

**Source:** 2 SDR 56, effective February 2, 1976; transferred from § 20:10:1, 15, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Service of complaint, § 20:10:01:09.

**20:10:17:03. Information on bills.** Bills provided to customers for electric and gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable;
- (10) A statement that customer information is available upon request and where it can be obtained;
- (11) A statement that the customer is responsible for payment of all charges for service rendered.

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

**Source:** 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law implemented:** SDCL 49-34A-3, 49-34A-4, 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service - Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency;

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

**Source:** 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for information purposes only.

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

**General Authority:** SDCL 49-31-76.

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

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03, and
- (2) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 8<sup>th</sup> day of December, 1999.

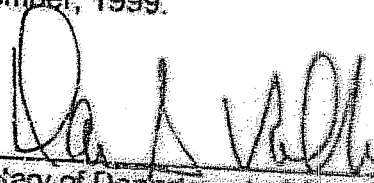
  
Secretary of Department of Commerce and Regulation

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, David Volk, Secretary of Department of Commerce and Regulation, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules: §§ 20:10:01:00, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

Dated this 8th day of December, 1999.

  
Secretary of Department of Commerce and Regulation

Public Utilities Commission  
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered

20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities.

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 January 21, 2000, 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	13	Department of Commerce & Regulation
DIVISION	139	Public Utilities Commission
PROGRAM	1393	Fixed Utilities Division

PROPOSED RULE 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

Hearing Date January 10, 2000

**FISCAL NOTE SUMMARY:**

List state agencies of local governmental subdivisions affected.

**COST INCREASES (DECREASES)**

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

APPROVED

  
Signature Department Secretary or Board or Commission Chairman

DATE 12/8/99

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.

## EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 458, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In Section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

Since the reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities, there are no fiscal impacts on state agencies or local governmental subdivisions.

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03,
- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 9<sup>th</sup> day of December, 1999.

  
Legislative Research Council

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or omission, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

**Source:** 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:12  
12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1,  
1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Service of complaint, § 20:10:01:09.

**20:10:17:03. Information on bills.** Bills provided to customers for electric and  
gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if  
applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an  
estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable;
- (10) A statement that customer information is available upon request and where  
it can be obtained;
- ~~(11) A statement that the customer is responsible for payment of all charges for  
service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

Source: 3 SDR 2, effective July 19, 1976; 12 SDR 88, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-34A-4.

Law Implemented: SDCL 49-34A-3, 49-34A-4, 49-34A-27.

20:10:24:02. Certificate of authority for interexchange service -- Application requirements. Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

**Source:** 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 80, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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


IN THE MATTER OF THE  
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ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:03, 20:10:01:11.01, 20:19:17:03, 20:10:24:02 and 20:10:32:03; and
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is hereby admitted at Pierre, South Dakota, this 8<sup>th</sup> day of December, 1999.

  
\_\_\_\_\_  
Secretary of Department of Commerce and Regulation

IN THE MATTER OF THE  
PROMULGATION OF  
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WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, David Volk, Secretary of Department of Commerce and Regulation, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

Dated this 8th day of December, 1999.

  
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Secretary of Department of Commerce and Regulation


IN THE MATTER OF THE  
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- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:03, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03,
- (2) the notice of hearing, and
- (3) the fiscal note

is hereby admitted at Pierre, South Dakota, this 9<sup>th</sup> day of December, 1999

  
Bureau of Finance and Management

Public Utilities Commission  
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered

20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities.

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 January 21, 2000, 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	13	Department of Commerce & Regulation
DIVISION	139	Public Utilities Commission
PROGRAM	1393	Fixed Utilities Division

PROPOSED RULE 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

Hearing Date January 10, 2000

**FISCAL NOTE SUMMARY:**

List state agencies of local governmental subdivisions affected.

**COST INCREASES (DECREASES)**

	First-Year Impact	Continuous-Yearly Impact
TOTAL	0	0
TOTAL	0	0
TOTAL	0	0

APPROVED

*James A. Perry*  
Signature Department Secretary or Board or Commission Chairman

DATE

12/8/99

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.

## EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 468, first floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

The effects of the proposed rules changes are as follows:

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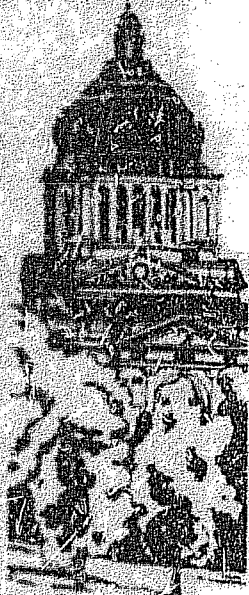
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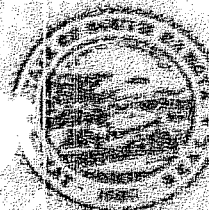
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In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

Since the reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities, there are no fiscal impacts on state agencies or local governmental subdivisions.



# South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

December 10, 1999

Capitol Office  
Telephone (605)773-3201  
FAX (605)773-3809

Transportation/  
Warehouse Division  
Telephone (605)773-5280  
FAX (605)773-3225

Consumer Hotline  
1-800-332-1782

TTY Through-  
Relay South Dakota  
1-800-377-1113

Internet Website  
[www.puc.state.sd.us/puc/](http://www.puc.state.sd.us/puc/)

Jim Burg  
Chairman  
Pam Nelson  
Vice-Chairman  
Laska Schoenfelder  
Commissioner

William Bullard Jr.  
Executive Director

Hylan Bost  
Martin C. Bettmann  
Sue Cichas  
Karen E. Cremer  
Michele M. Farris  
Marlette Fischbach  
Heather K. Forney  
Shirlen Fugitt  
Mary Giddings  
Lewis Hammond  
Lemi Healy  
Camron Hoseck  
Lisa Hull  
Dave Jacobson  
Katie Johnson  
Bob Knalle  
Delaine Kolbo  
Charlene Lund  
Terry Norum  
Gregory A. Rislov  
Keith Senger  
Rosalyn Allis West

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

To whom it may concern:

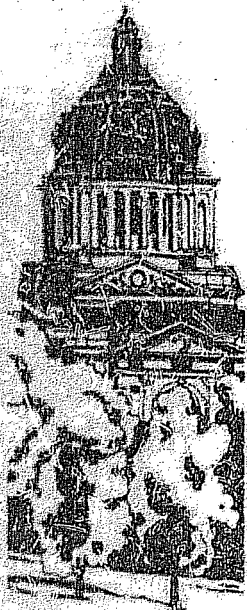
Please publish the enclosed notice in your paper as a display advertisement for one issue by December 17, 1999.

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

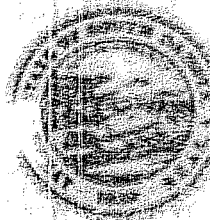
Sincerely yours,

Camron Hoseck  
Staff Attorney

CH:dk  
Enc.



# South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

December 10, 1999

Capitol Office  
Telephone (605)773-3201  
FAX (605)773-3309

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Warehouse Division  
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Jim Burg  
Chairman  
Pam Nelson  
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Lizka Schoenfelder  
Commissioner

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Harlan Best  
Martin C. Bettmann  
Sue Cichos  
Karen E. Cremer  
Michelle M. Farris  
Madette Fischbach  
Heather K. Fomey  
Shirleen Fugitt  
Mary Giddings  
Lewis Hammond  
Loni Healy  
Camron Hoseck  
Lisa Hull  
Dave Jacobson  
Katie Johnson  
Bob Knadle  
Delaine Kotbo  
Charlene Lund  
Terry Norum  
Gregory A. Rislov  
Keith Senger  
Rosalynne Alts Wiest

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

To whom it may concern:

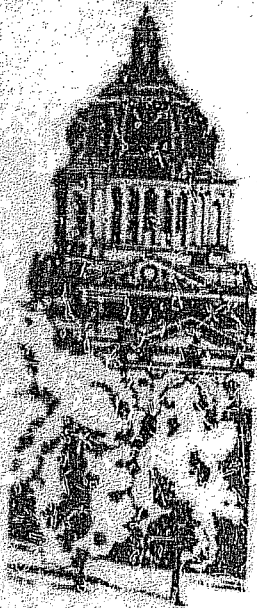
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Sincerely yours,

Camron Hoseck  
Staff Attorney

CH:dk  
Enc.



# South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5076

December 10, 1999



Capitol Office  
Telephone (605) 773-2201  
FAX (605) 773-3809

Transportation/  
Warehouse Division  
Telephone (605) 773-5280  
FAX (605) 773-3225

Consumer Hotline  
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Heather K. Forney  
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Cameron Hoseck  
Lisa Hull  
Dave Jacobson  
Katie Johnson  
Bob Knadle  
Delaine Kolbo  
Charlene Lund  
Terry Norum  
Gregory A. Rislov  
Keith Senger  
Robyne Alits Wiest

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

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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 December 10, 1999, I mailed 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 10th day  
of December, 1999.

  
Notary Public - South Dakota

(SEAL)

My Commission Expires  
\_\_\_\_\_, 19\_\_.

CARLSON HOSECK  
Notary Public  
My Commission Expires Mar. 15, 2005

Public Utilities Commission  
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CTO COMMUNICATIONS, INC.  
140 NORTH PHILLIPS AVE STE 404  
SIOUX FALLS SD 57102-0539  
Tel. No. (605)658-3064  
FAX No. (605)335-3942

WAYNE AELAND  
MANAGER  
SHERBORN MUNICIPAL TELEPHONE  
101 NORTH 3RD STREET  
SHERBORN SD 57004-1796  
Tel. No. (605)763-2008  
FAX No. (605)763-2329

MICHAEL ANDERSON  
VICE PRESIDENT  
BIG PLANET, INC.  
75 WEST CENTER STREET  
PROVO UT 84601  
Tel. No. (801)345-7000  
FAX No. (801)345-6999

CLAY ARENDES  
STAFF ATTORNEY  
SPRINT COMMUNICATIONS  
8140 WARD PARKWAY, 5TH FLR  
KANSAS CITY MO 64114  
Tel. No. (913)624-5447  
FAX No. (913)624-4088

JOEL BALLEW  
REGULATORY AFFAIRS  
EXCEL TELECOMMUNICATIONS, INC.  
8750 N CENTRAL EXPRESSWAY LOCK BOX 6  
DALLAS TX 75231  
Tel. No. (800)783-2909  
FAX No. (214)863-8721

DEBORAH BANN  
REGULATORY AFFAIRS  
AMER-I-NET SERVICES CORP.  
PO BOX 85  
FARMINGDALE NJ 07727-0085  
Tel. No. (732)751-1558  
FAX No. (732)751-1530

WAYNE A AHLGREN  
RURAL ELECTRIFICATION ADMIN.  
4825 E. ROUNDUP ROAD  
BISMARCK ND 58501-8923  
Tel. No. (701)255-6363  
FAX No. (701)258-7508

TERESA ANDERSON  
REGULATORY AFFAIRS  
CALLS FOR LESS, INC. DBA CFL  
PO BOX 1550  
NORTH SIOUX CITY SD 57049  
Tel. No. (800)211-5848  
FAX No. (605)232-4195

JOHN F ARCHER  
REPRESENTING TCIC  
HAGEN & WILKA  
100 S PHILLIPS AVENUE #418  
SIOUX FALLS SD 57102-0558  
Tel. No. (605)334-0005  
FAX No. (605)339-0571

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Tel. No. (800)783-2909  
FAX No. (214)863-8721

ROBERT BARFIELD  
GENERAL MANAGER  
WEST RIVER TELECOMMUNICATIONS COOP  
PO BOX 467  
HAZEN ND 58545-0467  
Tel. No. (701)748-2211  
FAX No. (701)748-6800

LEON J. BARISH  
BARISH & VAN HELDEN  
1402 W 6TH ST  
AUSTIN TX 78703-5140  
Tel. No. (512)477-9058  
FAX. No. (512)477-9061

DEBORAH BARRETT  
VP REGULATORY AFFAIRS  
TELTRUST COMMUNICATIONS SERV. INC.  
6122 S 3000 E  
SALT LAKE CITY UT 84121  
Tel. No. (801)535-2000  
FAX. No. (801)733-3424

LAREN REDELL  
SENIOR DIRECTOR EXTERNAL AFFAIRS  
CONVERGENT COMMUNICATIONS SERVICES  
400 INVERNESS DRIVE SOUTH STE 400  
ENGLEWOOD CO 80112  
Tel. No. (303)749-3000  
FAX. No. (303)749-3113

MARK D BENTON  
GENERAL MANAGER  
MIDSTATE TELEPHONE COMPANY  
PO BOX 48  
KIMBALL SD 57355-0048  
Tel. No. (605)778-6221  
FAX. No. (605)778-8080

TOM BERKLEMAN  
STATE MANAGER  
AT&T COMMUNICATIONS OF THE MIDWEST  
901 MARQUETTE AVE 9TH FLOOR  
MINNEAPOLIS MN 55402-3205  
Tel. No. (612)376-6767  
FAX. No.

PAUL BLACK  
PRESIDENT  
RSL COM U.S.A., INC.  
5550 TOPANGA CANYON BLVD STE 250  
WOODLAND HILLS CA 91367  
Tel. No. (818)888-7600  
FAX. No. (818)702-6645

MURRAY BARR  
COMPETITIVE STRATEGIES GROUP-AGENT  
ICG TELECOM GROUP, INC.  
70 E LAKE ST 7TH FLOOR  
CHICAGO IL 60601  
Tel. No. (312)236-0401ext 228  
FAX. No. (312)236-0381

MAIJA BECK  
SECRETARY  
U S WEST COMMUNICATIONS, INC.  
1801 CALIFORNIA ST STE 5100  
DENVER CO 80202  
Tel. No. (303)672-2810  
FAX. No. (303)295-7046

ROB BELLIVEAU  
EXEC VP REGULATORY MATTERS  
LONDON TELECOM/STRATEGIC ALLIANCES  
710 DORVAL DR STE 700  
OAKVILLE ONTARIO CAN L6K3V7  
Tel. No. (905)337-6064  
FAX. No. (905)337-6116

RUSSELL BERG  
SENIOR PRODUCT MANAGER  
CRYSTAL COMMUNICATIONS, INC.  
1650 MADISON AVE STE 100  
MANKATO MN 56001  
Tel. No. (507)386-3636  
FAX. No. (507)386-3612

JON BERROYA  
BENTON FOUNDATION  
1634 EYE ST NW 12TH FLOOR  
WASHINGTON DC 20005  
Tel. No. (202)638-5770  
FAX. No. (202)638-5771

DONALD G BLAKSTAD  
PRESIDENT  
INTERNATIONAL TELECOM. CORP  
701 B ST STE 1450  
SAN DIEGO CA 92101-8101  
Tel. No. (619)599-5350  
FAX. No. (619)280-4419

MIKE BORUKI  
STATE & LOCAL TAX ANALYST  
GTE TELECOMMUNICATION SERVICES INC  
245 PERIMETER CENTER PARKWAY  
ATLANTA GA 30346  
Tel. No. (404)391-8357  
FAX No.

JAMES BROOKS  
JOHNSON STONE & PAGANO  
810 A STREET STE 300  
TACOMA WA 98402  
Tel. No. (253)272-5060  
FAX No. (253)383-7234

AARON BROWN  
EXECUTIVE VICE PRESIDENT  
US WATS, INC.  
2 GREENWOOD SQ #275 3331 STREET RD  
BENSALEM PA 19020-2052  
Tel. No. (215)633-9400  
FAX No. (215)633-9467

DAVID A BRYSON  
REGULATORY AFFAIRS  
JATO OPERATING TWO CORP.  
1099 18TH ST STE 2200  
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RECEIVED

DEC 13 1999

CPA 3012

**SOUTH DAKOTA PUBLIC  
ADMINISTRATIVE PROCEDURES COMMISSION**  
**FISCAL NOTE**  
Prepared by Submitting Agency

<b>DEPARTMENT</b>	<b>13</b>	<b>Commerce &amp; Regulation</b>
<b>DIVISION</b>	<b>139</b>	<b>Public Utilities Commission</b>
<b>PROGRAM</b>	<b>1393</b>	<b>Fixed Utilities Division</b>

**PROPOSED RULE:** 20:10:01:09, 20:10:01:11, 01, 20:10:17:03, 20:10:21:12 and 20:10:32:13

**Hearing Date:** January 10, 2000

**FISCAL NOTE SUMMARY:**

List state agencies of local governmental subdivisions affected.

**COST INCREASES (DECREASES)**

State Agencies	First Year Impact	Subsequent Years Impact
	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>
Local Subdivisions		
	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>
Systemic Impacts		
	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>

APPROVED: *Antis A. Cress*  
Signature Department Secretary or Board or Commission (Chairman) DATE: 12/13/99

**ATTACH:** Copy of proposed rules; separate sections for: 1) explanation of how effect (e.g. 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.

*South Dakota*

**DEPARTMENT OF EXECUTIVE MANAGEMENT**

BUREAU OF FINANCE AND MANAGEMENT

500 East Capitol, Pierre, SD 57501

(605) 773-3411

FAX: (605) 773-4711

**GREAT PLACES. GREAT PLACES.**

December 13, 1999

The Bureau of Finance and Management has reviewed the attached proposed rules from the Department of Commerce & Regulation and concurs with the assumptions and fiscal impact calculations within the attached package.

  
D. L. H.

00044  
Don

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01.09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03,
- (2) the notice of hearing, and
- (3) the fiscal note

is hereby admitted at Pierre, South Dakota, this 9<sup>th</sup> day of December, 1999.

  
Bureau of Finance and Management

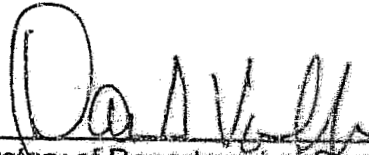
IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules: §§ 20:10:01:00, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03; and
- (2) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 8<sup>th</sup> day of December, 1999.

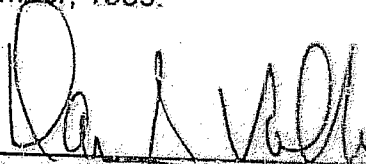
  
\_\_\_\_\_  
Secretary of Department of Commerce and Regulation

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

WAIVER OF WAITING PERIOD

Pursuant to SDCL subdivision 1-26-4(2), I, David Volk, Secretary of Department of Commerce and Regulation, waive the fifteen-day waiting period before proceeding with the promulgation of the Public Utilities Commission's proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

Dated this 8th day of December, 1999.

  
\_\_\_\_\_  
Secretary of Department of Commerce and Regulation

Public Utilities Commission  
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered

20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities.

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 January 21, 2000, 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	13	Department of Commerce & Regulation
DIVISION	139	Public Utilities Commission
PROGRAM	1393	Fixed Utilities Division

**PROPOSED RULE** 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

Hearing Date January 10, 2000

**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

*James A. Burg*  
Signature Department Secretary or Bo

DATE \_\_\_\_\_

12/2/21

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.

## EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

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In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

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In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

Since the reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities, there are no fiscal impacts on state agencies or local governmental subdivisions.

## EXPLANATION OF RULES EFFECT

The Public Utilities Commission will hold a public hearing in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

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In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

Since the reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities, there are no fiscal impacts on state agencies or local governmental subdivisions.

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or transaction, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

**Source:** 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11, 49-34A-4.

**Law Implemented:** SDCL 49-1-11, 49-13-1, 49-34A-4.

**Cross-Reference:** Service of complaint, § 20:10:01:09.

**20:10:17:03. Information on bills.** Bills provided to customers for electric and gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable;
- (10) A statement that customer information is available upon request and where it can be obtained;
- ~~(11) A statement that the customer is responsible for payment of all charges for service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising-approved by the commission.

**Source:** 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-34A-4.

**Law Implemented:** SDCL 49-34A-3, 49-34A-4, 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service -- Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency;

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (8) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

**Source:** 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

- (1) The applicant's name, address, telephone number, facsimile number, E-mail address, and whether the applicant is a sole proprietorship, partnership, corporation, limited liability corporation, or limited liability partnership;
- (2) If a sole proprietorship, the full name and business address of its owner; if a partnership, the full name and business address of each partner; if a corporation, a listing of the full name and business address of each corporate officer and director; if a limited liability corporation, the full name and business address of each member; or, if a limited liability partnership, the full name and business address of each partner;
- (3) The name under which applicant will provide local exchange services if different than in subdivision (1) of this section;
- (4) If a corporation:
  - (a) The location of its principal office, if any, in this state and the name and address of its current registered agent;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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



# Legislative Research Council

Rep. Kenneth G. McNenny, Chair  
Sen. Arnold M. Brown, Vice Chair

Terry C. Anderson, Director  
Doug Decker, Code Counsel

December 13, 1999


James Burg, Commissioner  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

Dear Commissioner Burg:

The Public Utilities Commission has proposed the adoption, repeal, or amendment of rules in chapters 20:10:01, 20:10:17, 20:10:24, and 20:10:32 to streamline regulatory procedures and simplify billings by gas and electric utilities. We have reviewed the proposed rules, scheduled for hearing on January 10, 2000, 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 yours,

  
Doug Decker  
Code Counsel

DD:FJB

**PROPOSED RULES:** ARSD Chapters 20:10:01, 20:10:17, 20:10:24, and 20:10:32 relating to streamlining regulatory procedures and simplifying billings by gas and electric utilities.

**HEARING DATE:** January 10, 2000

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;
- (4) Copies of the following:
  - (a) The minutes of the public hearing;
  - (b) The affidavit of mailing to Rules Committee members, if already done.

A copy of the final draft of the rules, together with the minutes of the public hearing, must be mailed to each member of the interim Rules Review Committee at least ten days before the rules are filed with the Secretary of State. Regular mail may be used.

The Legislative Research Council requests that you submit the final draft of the rules for approval by this office at the same time that you send it to the Rules Review Committee members. If you think substantive change may be needed in the final draft, you may send it to us before you send it to the committee.

It should be noted that agencies are responsible for seeing that all documents are completed and signed before the certificate of compliance with Chapter 1-26 and the final draft of the rules are filed 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.

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

ADMISSION OF SERVICE

Personal service of

- (1) Public Utilities Commission's proposed revised rules §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03,
- (2) the notice of hearing,
- (3) the fiscal note, and
- (4) all materials incorporated by reference

is hereby admitted at Pierre, South Dakota, this 9<sup>th</sup> day of December, 1999.

  
\_\_\_\_\_  
Legislative Research Council

Public Utilities Commission  
Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered

20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities.

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 January 21, 2000, 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	13	Department of Commerce & Regulation
DIVISION	139	Public Utilities Commission
PROGRAM	1393	Fixed Utilities Division

PROPOSED RULE 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03

Hearing Date January 10, 2000

**FISCAL NOTE SUMMARY:**

List state agencies or local governmental subdivisions affected.

**COST INCREASES (DECREASES)**

	First Year Impact	Continuous Yearly Impact
<b>TOTAL</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>0</b>

APPROVED

*James A. Burg*  
Signature Department Secretary or Board or Commission Chairman

DATE 12/8/99

**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.

20:10:01:09. Service of complaint. If the commission believes that the ~~complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or~~ ~~exclusion, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

Source: SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-1-11<sup>(2)</sup>, 49-34A-4<sup>(6)</sup>---

Law Implemented: SDCL 49-1-11<sup>(2)</sup>, 49-13-1, 49-34A-4<sup>(6)</sup>---

Cross-Reference: Manner of service, § 20:10:01:22.03.

20:10:01:11.01. Defenses to complaint. The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable~~ cause or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:15,  
12 SDR 65, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1,  
1985.

General Authority: SDCL 49-1-1<sup>(2)</sup>, 49-34A-4<sup>(6)</sup>  
Law Implemented: SDCL 49-1-1<sup>(2)</sup>, 49-13-1, 49-34A-4<sup>(6)</sup>

Cross-Reference: Service of complaint, § 20:10:01:09.

20:10:17:03. Information on bills. Bills provided to customers for electric and  
gas service shall include, ~~but are not limited to,~~ the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if  
applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an  
estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable; *and*
- (10) A statement that customer information is available upon request and where  
it can be obtained;
- (11) ~~A statement that the customer is responsible for payment of all charges for  
service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

Source: 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-34A-<sup>(3)</sup>~~4~~.<sup>(14)</sup>

Law Implemented: SDCL 49-34A-3, 49-34A-<sup>(3)</sup>~~4~~, 49-34A-27.

20:10:24:02. Certificate of authority for interexchange service -- Application requirements. Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

Source: 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-3.

Law Implemented: SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service —**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

(16) If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to § 20:10-12-15 and applicant's plans for meeting the service obligations;

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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

RM 99-002

LAW OFFICES  
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NEIL FULTON

January 7, 2000

OF COUNSEL  
WALTER W. HART

TELEPHONE  
605 224-1801  
TELECOPIED  
605 224-8833  
FAX  
605 224-1801

RECEIVED

JAN 07 2000

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

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

RE: NORTHERN STATES POWER COMPANY REGULATORY; JANUARY 2000  
RULES HEARING  
Our file: 0185

Chairman Burg and Commissioners Schoenfelder and Nelson:

Please accept these comments on behalf of Northern States Power Company concerning the proposed rules changes which have been noticed for hearing in Room 468, State Capitol, on January 10, 2000, at 9:00 a.m.

The Company has no objection to the rules changes dealing with the contents of applications for certificates of authority. Also, the Company has no position on the deletions in the rules dealing with bills provided to customers for electric and gas service.

However, the proposed amendments to ARSD 20:10:01:09 and 20:10:01:11.01 would eliminate the probable cause determination now made by the Commission on Consumer Complaints. We believe the probable cause requirement provides a good vehicle to weed out claims which are clearly not meritorious. In the most obvious case, it has proved helpful where the company complained against is not the correct defendant. This has happened on several occasions in our experience. In other instances, complaints have involved matters which are not within the jurisdiction of the Commission. It makes little sense for a matter such as this to proceed to hearing.

If there is a problem, we believe it is that complaints have been placed on the Commission's agenda as action items within days of the time that they have been received by the Commission. A more useful procedure, we believe, would be for the complaint to be sent to the company, and for the company to be given 20 days within which to settle the complaint, prior to the case being on the agenda. If the complaint cannot be settled, the case should then be put on the agenda, and if probable cause is found, the

January 7, 2000  
Page 2

case should then be set down for hearing. In this fashion, the company will first have the opportunity to resolve the case before the matter is sent to hearing and the positions of the parties are potentially polarized.

In conclusion, it will probably take an amendment to accomplish what we have proposed. However, an amendment giving the company 20 days within which to settle the complaint prior to putting it on the agenda for a probable cause hearing should cut down the length of the Commission's agendas and encourage prompt settlements.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



NEIL FULTON  
NF:mw

cc: Jim Wilcox

RM 99-002

LAW OFFICES  
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January 7, 2000

OF COUNSEL  
WARREN W. RYAN

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

RE: JANUARY 2000 RULES HEARING

RECEIVED  
JAN 07 2000  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Chairman Burg and Commissioners Schoenfelder and Nelson:

Please accept these comments on behalf of MCI WorldCom concerning the proposed rules changes which have been noticed for hearing in Room 468, State Capitol, on January 10, 2000, at 9:00 a.m.

MCI WorldCom has no objection to the rules changes dealing with the content of applications for certificates of authority. Also, MCI WorldCom has no position on the deletions in the rules dealing with bills provided to customers for electric and gas service.

However, the proposed amendments to ARSD 20:10:01:09 and 20:10:01:11.01 would eliminate the probable cause determination now made by the Commission on consumer complaints. We believe that the probable cause requirement provides a good vehicle to weed out claims which are clearly not meritorious. In the most obvious case, it has proved helpful when the company complained against was not the correct defendant. In our experience, this has happened on several occasions. In other instances, complaints have involved matters which are not within the jurisdiction of the Commission. It makes little sense for such matters to proceed to hearing.

If there is a problem with the current procedures, we believe it is that complaints have been placed on the Commission's agenda as action items within days of the time they were received by the Commission. Often, this does not leave parties enough time to appropriately research the facts. A more useful procedure would be for the complaint to be sent to the company, and for the company to be given 20 days within which to settle the complaint, prior to the case being on the agenda. If the complaint cannot be settled, the case should then be put on the agenda, and if probable cause is found, the case should then be set down for

January 7, 2000  
Page 2

hearing. In this fashion, the company will first have the opportunity to settle the case before the positions of the parties are polarized.

In conclusion, it will probably take an amendment to accomplish what we have proposed. However, an amendment giving the company 20 days within which to settle the complaint prior to putting it on the agenda for a probable cause hearing should cut down the length of the Commission's agendas and encourage prompt settlements.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



NEIL FULTON

NF:mw

cc: Michel Murray, MCI WorldCom

County of Brookings

Christina Nelson 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 in the office maintained at said place of publication; and that the

Legal #868 Jan 10 Public Hearing in Pierre

a printed copy of which, taken from the paper in which the same was published, is hereto attached marked Exhibit "A," and is made a part of this affidavit, was published in said newspaper for \_\_\_\_\_ times, to-wit:

December 17, 1999

That the full amount of the fee charged for the publication of said Exhibit "A" inures to the sole benefit to 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:

Two hundred three dollars and four cents \$203.04

Christina Nelson

Subscribed and sworn to before me this

28 day of

December

, 1999.

Mary Schulte

Notary Public in and for the County of Brookings, South Dakota.  
My Commission expires January 28, 2005.

RECEIVED

JAN 17 2000

SOUTH DAKOTA PUBLIC  
UTILITIES

IES COMMISSION  
ARING TO ADOPT RULES

at in Room 463, Fourth Floor, State  
January 10, 2000, at 9:30 a.m., to  
present of proposed rules numbered  
20-10-17-01, 20-10-21-02 and

rules changes are as follows:  
language which is removed requires  
not first find probable cause of an  
e. practice, or omission on the part  
tack against that utility and before  
With the removal of that language  
able Utilities Commission would  
it has twenty days to answer it and  
would proceed to hearing  
incident with the proposed change  
of there being no probable cause  
e. rate, practice, or omission on the  
defenses a utility may assert either  
dismiss. In other words, with the  
Public Utilities Commission that  
complaint is never forward, this  
use which may be asserted later in

subsection (1) is removed which  
at of electric utility to a consumer  
a payment of all charges for ser-  
graph of this section is required  
Utilities Commission of adverse  
customer's bill.

a modification specifies that the  
s applicant must be furnished to  
a applications for certificates of

a applicant for a certificate of  
it would be able to furnish when  
the geographic area it wants to  
age which requires a map and a

Aug 473	474 3/4	488	489	-2 1/2
May 475 1/2	478 1/2	470 1/4	470 1/4	- 1/4
Nov 485 1/2	481	470	470 1/2	-2
Nov 505	506	501	501	

MINNEAPOLIS (AP) -- The winning

are: 19-32-33-35-37, Forward 23

## Chicago Mercantile

CHICAGO (AP) -- Futures trading on the Chicago Mercantile Exchange Thu:

Open High Low Settle Chg.

### CATTLE

40,000 lbs.; cents per lb.

Dec	83.80	83.05	83.75	83.80	-.15
Feb	83.00	82.07	82.27	82.80	+.13
Apr	70.45	70.65	70.13	70.52	-
Jun	68.97	69.05	68.55	68.50	-.10
Aug	68.75	68.65	68.00	68.02	-.18
Oct	70.50	70.65	70.37	70.42	-.10
Dec	71.82	71.75	71.55	71.70	-.08

### FEEDER CATTLE

50,000 lbs.; cents per lb.

Jun	84.15	84.32	83.75	84.17	-.03
Mar	84.20	84.37	83.85	84.32	+.10
Apr	84.05	84.35	83.85	84.27	+.02
May	84.20	84.40	83.95	84.38	+.03
Aug	85.05	85.45	84.95	85.45	+.08
Sep	85.47	85.55	85.00	85.55	+.05

### HOGS, LEAN

40,000 lbs.; cents per lb.

Feb	57.00	57.00	56.05	56.15	-.40
Apr	57.55	57.80	56.70	56.82	-.15
Jun	54.85	55.00	54.30	54.70	-.10
Jul	63.35	63.35	62.95	63.30	+.08
Aug	61.35	61.05	61.20	61.50	+.18
Oct	56.02	56.80	56.00	56.75	+.13
Dec	54.30	54.80	54.50	54.65	+.15
Feb	55.18	55.05			
Apr	54.50	54.50	54.00	54.80	

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

A public hearing will be held in Room 468, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., to consider the adoption and amendment of proposed rules numbered 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

The effects of the proposed rules changes are as follows:

In section 20:10:01:09, the language which is removed requires that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (11) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

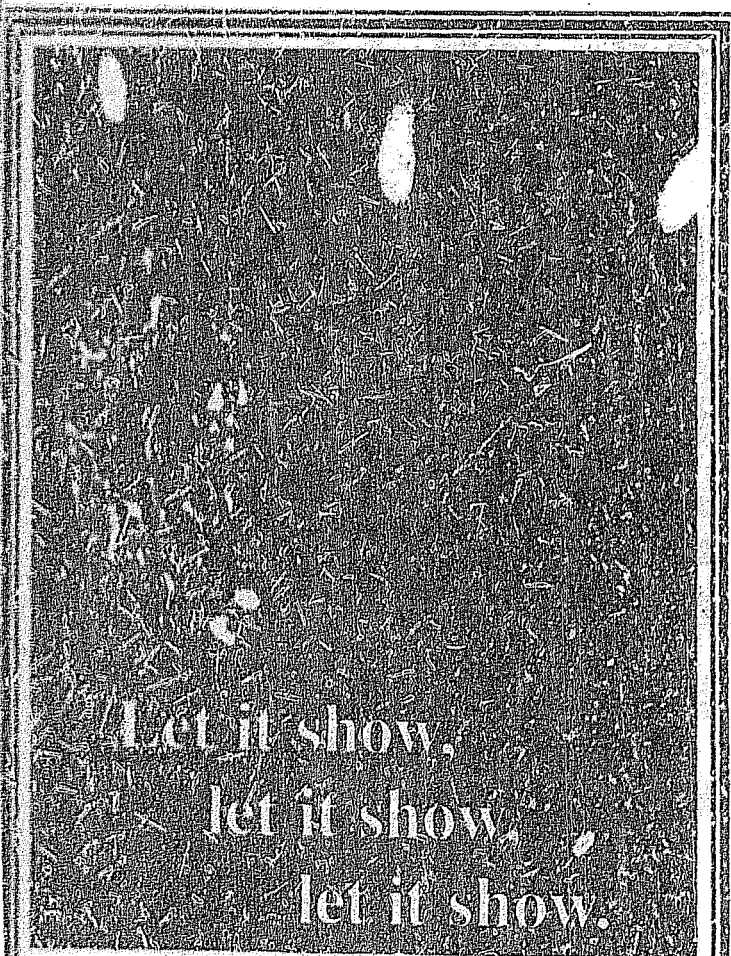
In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billing by gas and electric utilities.

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 January 21, 2000, 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.

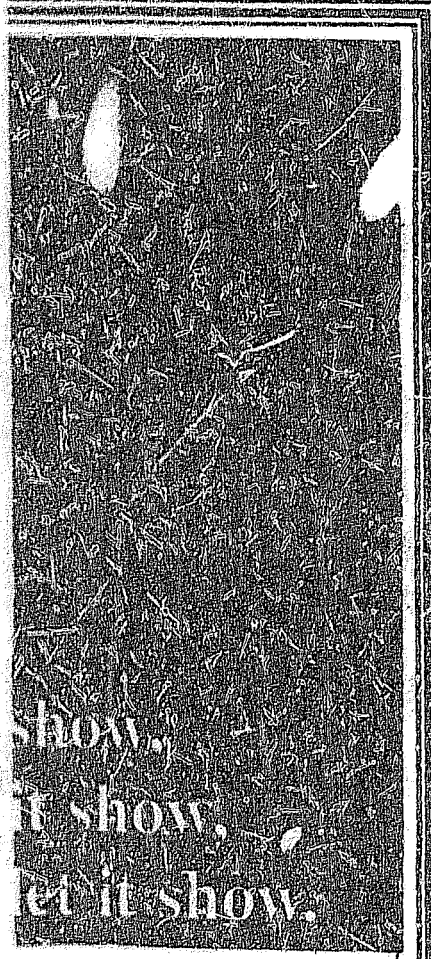
Notice is further given to individuals with disabilities that this hearing is being held in a physically accessible place. Please notify the Public Utilities Commission at least 48 hours before the public hearing if you have special needs for which special arrangements must be made. The telephone number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



Let it show,  
let it show,  
let it show.

Aaah? One of the really fun parts about  
new jewelry on Christmas morning?

10.17	98.98	68.85	88.88	7.15	
10.20	70.65	70.37	70.42	+1.10	
11.22	71.75	71.53	71.70	+0.00	
PUBLIC CATTLE					
40,000 lbs., cwt. per lb.					
Jan	84.13	84.22	83.79	84.17	+0.03
Feb	84.20	84.27	83.85	84.32	+0.10
Mar	84.05	84.25	83.85	84.27	+0.02
Apr	84.20	84.40	83.85	84.35	+0.03
May	85.05	85.45	84.95	85.45	+0.08
June	85.47	85.55	85.00	85.55	+0.05
WEEKLY LEAN					
40,000 lbs., cwt. per lb.					
Feb	57.00	57.00	56.05	56.15	-0.40
Mar	57.55	57.00	56.70	56.82	-0.55
Apr	58.05	58.00	54.30	54.70	-1.10
May	58.35	58.35	52.95	53.30	+0.08
June	61.35	61.80	61.20	61.50	+0.18
July	66.62	66.80	56.60	56.75	+0.13
Aug	64.50	64.90	54.50	54.65	+0.15
Sept	55.10	55.05			
Oct	54.50	54.50	54.50	54.80	



he really fun parts about  
n Christmas morning?

link's

We welcome all  
credit cards.  
322 5th St., Brookings  
692-4623

20:10:32:03

The effects of the proposed rules changes are as follows:  
In section 20:10:01:09, the language which is removed required that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the matter proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it remains unresolved, it would proceed to hearing.

In section 20:10:01:11.01, consistent with the proposed change in section 20:10:01:09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either in its answer or by a motion to dismiss. In other words, with the removal of the necessity that the Public Utilities Commission find that there is probable cause for a complaint to move forward, this modification removes it as a defense which may be asserted later in the complaint proceedings.

In section 20:10:17:03, all of subsection (1) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to remove approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10:24:02(8) this modification specifies that the current financial statements of the applicant must be furnished to the Public Utilities Commission in applications for certificates of authority for interexchange service.

In section 20:10:32:03(8), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as opposed to present language which requires a map and a narrative description.

In section 20:10:32:03(11)(a), similar to the change in section 20:10:24:02(8), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory procedures and simplify billings by gas and electric utilities.

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 January 21, 2000, 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>.

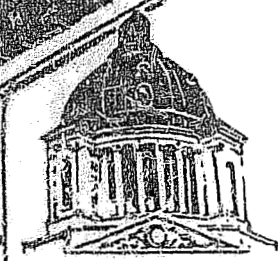
COUNTY OF LAWRENCE

## Notice of Public Hearing

Subscribed and sworn to before me this 15th day of Dec, 19 99

Notary Public, Lawrence  
My commission expires:  
FEBRUARY  
SEAL  
SOUTH DAKOTA

[illegible]



# Capitol

## AFFIDAVIT

State of South Dakota, County of Hughes

Toni Richardson

oath, says: That he/she is the publisher of the Capital Journal, a daily newspaper published in the County of Hughes and State of South Dakota; of the facts herein stated, that said rules SDCL 17-2-2.1 through 17-2-2.4 included within the said County of Hughes year next prior to the first publication legal display advertisement headed Notice of Public Hearing, a printed copy of which, taken from the said newspaper for one success:

December 15 19 99

19

19

19

19

That the full amount of the fee charge notice inures to the sole benefit of the or understanding for the division thereof and that no part thereof has been agreed that the fees charged for the publication

Signed: Toni Richardson

subscribed and sworn to before me this

Notary Public in and for the County of  
My Commission expires

## Public Utilities Commission Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 463, fourth floor, State Capitol, Pierre, South Dakota, on January 10, 2000, at 9:00 a.m., for the adoption and amendment of proposed rules numbered

20:10-01-09, 20:10-01-11-01, 20:10-17-03, 20:10-24-02 and 20:10-32-03

The effects of the proposed rules changes are as follows:

In section 20:10-01-09, the language which it is removed requires that the Public Utilities Commission first find probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility when a complaint is made against that utility and before the hearing proceeds to a hearing. With the removal of that language, once a complaint is filed, the Public Utilities Commission would then forward it to the utility which has twenty days to answer it and then, if it is not resolved, it would proceed to hearing.

In section 20:10-01-11-01, consistent with the proposed change in section 20:10-01-09, the defense of there being no probable cause of an unlawful or unreasonable act, rate, practice, or omission on the part of a utility is removed from defenses a utility may assert either as its answer or by a motion to dismiss. In other words, with the removal of that necessity that the Public Utilities Commission first find that there is probable cause for a complaint to move forward, this modification requires it as a defense which may be asserted later in the complaint proceedings.

In section 20:10-17-03, all of subsection (1) is removed which is a statement on the bill from a gas or electric utility to a customer that the customer is responsible for payment of all charges for service rendered. Further, the last paragraph of this section is modified to require approval by the Public Utilities Commission of advertising which may be included with a customer's bill.

In section 20:10-24-02(1), the modification specifies that the financial statements of the applicant must be furnished to the Public Utilities Commission in application for continuance of authority for interchange service.

In section 20:10-32-03(1), an applicant for a certificate of authority for local exchange service would be able to furnish either a map or a narrative description of the geographic area it intends to serve as evidence to present language which requires a map and a narrative description.

In section 20:10-32-03(1)(a), similar to the change in section 20:10-24-02(1), an applicant for a certificate of authority for local exchange service must furnish its financial statements to the Public Utilities Commission.

The reasons for the proposed rules are to streamline regulatory process and simplify billings by gas and electric utilities.

Persons interested in proposing amendments, objections, or questions to the proposed rules may do so by attending in person at the hearing, or by sending them to the South Dakota Public Utilities Commission, State Capitol, 200 West Capitol, Pierre, South Dakota 57501-5070. Materials sent by mail must reach the Public Utilities Commission by January 11, 2000, to be considered.

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

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

<b>IN THE MATTER OF THE ESTABLISHMENT OF REVISED RULES</b>	) ) )	<b>MINUTES OF PUBLIC HEARING RM99-002</b>
--	-------------	---

The Public Utilities Commission convened the public hearing at 9:00 a.m. on Monday, January 10, 2000, in Room 464, 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 ARSD 20:10:01:09, 20:10:01:11:01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

Members of the Commission in Attendance: Commissioners Jim Burg and Laska Schoenfelder; Commission Advisors Rolayne Wiest and Greg Rislov; Commission Staff: Michele Farris, David Jacobson, Keith Senger, Heather Forney, Camron Hoseck and William Bullard, Jr.

Others in Attendance: Rich Coit, SDITC and Colleen Sevold, U S WEST Communications, Inc.

Written comments were received prior to the hearing, on January 7, 2000, from Neil Fulton on behalf of Northern States Power Company and MCI WorldCom.

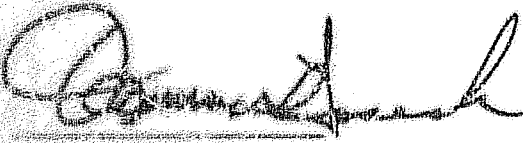
**Oral Testimony**

SDITC represented by Rich Coit addressed rules 20:10:01:09 and 20:10:01:11:01. While agreeing that the probable cause determination process was cumbersome, Mr. Coit expressed concerns over what attempts would be made to informally resolve complaints. He further voiced concern over processes to be used by the Commission in determining the merit of a complaint. Finally, Mr. Coit sought clarification of the amendment to 20:10:01:11:01 where failure to show probable cause is removed as a defense to a complaint.

U S WEST Communications, Inc., represented by Colleen Sevold, addressed the changes in the probable cause determination in the same rules as Mr. Coit. She stated that the probable cause process has never worked well for U S WEST Communications, Inc. The process goes into the merits of a complaint rapidly and U S WEST Communications, Inc. cannot always obtain sufficient facts prior to the time of the determination of probable cause.

His comments were received at the hearing concerning proposed rule changes in rules  
20:10:17:03, 20:10:24:02 and 20:10:32:03

Respectfully submitted,

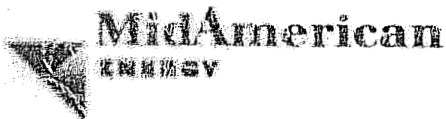
A handwritten signature in dark ink, appearing to read 'Cameron Hoxbeck', written over a horizontal line.

Cameron Hoxbeck

Staff Attorney

Public Utilities Commission

RM 99-002



RECEIVED

JAN 21 2000

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

MidAmerican Energy Company  
One River Center  
106 East Second  
P.O. Box 4350  
Davenport, Iowa 52803  
319 333-8006 Telephone  
319 333-8021 Facsimile

Karen M. Huizenga  
Attorney

January 20, 2000

By UPS Overnight

William Bullard  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

Re: Proposed Amendment of Rules

Dear Mr. Bullard:

Enclosed for filing are an original and ten copies of MidAmerican Energy Company's Comments concerning proposed amendments to Sections 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03 of ARSD Article 20.10.

The opportunity to provide written comments is appreciated.

Sincerely,

A handwritten signature in dark ink, appearing to read "Karen M. Huizenga", written over a horizontal line.

KMH-cki  
Encl.

RECEIVED

SOUTH DAKOTA

JAN 21 2011

PUBLIC UTILITIES COMMISSION

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: PROPOSED )  
RULE CHANGES )  
20:10:01:09, 20:10:01:11.01, )  
20:10:17:03, 20:10:24:02 )  
and 20:10:32:03 )

COMMENTS OF MIDAMERICAN ENERGY COMPANY

1. Proposed changes to §20:10:01:09 and §20:10:01:11.01. MidAmerican Energy Company (MidAmerican) does not oppose the proposed changes to these two rules, agreeing that the changes should help streamline the regulatory process. However, this change will likely result in a greater emphasis on the informal resolution process required by §20:10:01:08.01. MidAmerican is aware that even now the great majority of complaints are resolved during the informal process. However, MidAmerican would request the Commission consider a modification to §20:10:01:08.01 that could add further efficiency to the informal process. For ease of review, MidAmerican sets forth that rule below with the modification proposed in bold type:

20:10:01:08.01. Commission action on complaints. Upon the filing of a complaint, the commission shall attempt to settle the complaint without formal action. ~~If the complaint cannot be properly disposed of informally, the commission shall proceed in accordance with the provisions of~~ **§20:10:01:09. The Commission shall have the authority to request additional information needed to resolve the complaint from either party.** If the commission believes the complaint does not conform to this chapter, it shall so notify the complainant or the complainant's attorney, and opportunity shall be given to amend the complaint within a time specified by the commission. If the complaint is not amended within such time, or such extension thereof as the commission for good cause shown

may grant, it shall be dismissed. If the complaint is not dismissed the Commission shall issue a proposed resolution of the complaint upon receipt of all necessary information from the parties. If a party is dissatisfied with the proposed resolution, a request for formal proceedings may be made and the matter will proceed in accordance with the provisions of §20:10:01:09.

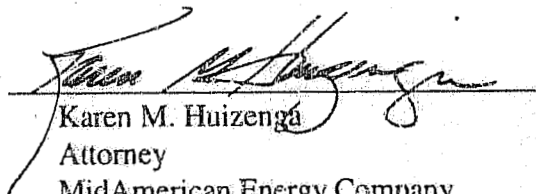
2. Proposed changes to §20:10:17:03. MidAmerican agrees with the proposed changes to simplify billings.

3. Proposed changes to §§20:10:24:02(8), 20:10:32:03(8), and 20:10:32:03(11)(a). MidAmerican offers no comments concerning these proposed changes.

Respectfully submitted,

MIDAMERICAN ENERGY COMPANY

By



Karen M. Huizenga

Attorney

MidAmerican Energy Company

One RiverCenter Place

106 East Second Street

P.O. Box 4350

Davenport, Iowa 52808

319/333-8006 (Voice)

319/333-8021 (Facsimile)

kmhuizenga@midamerican.com

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

AFFIDAVIT

I, Delaine Kolbo, hereby certify that on February 3, 2000, I mailed a full, true, and correct copy of the following rules adopted by the Public Utilities Commission on February 2, 2000, 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 rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03,  
20:10:26:02 and 20:10:32:03.

The Honorable Jerry Shoener, Chair  
State Senator  
4012 Clover Street  
Rapid City, SD 57702-0252

The Honorable Orville Smidt, Vice Chair  
State Representative  
117 Fourth Street  
Brookings, SD 57006-1915

The Honorable Eric Bogue  
State Senator  
P. O. Box 400  
Dupree, SD 57523-0400

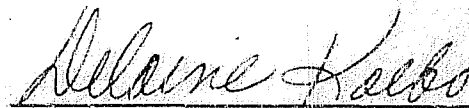
The Honorable William Cerny  
State Representative  
Route 1, Box 2  
Burke, SD 57523-9505

The Honorable H. Paul Dennert  
State Senator  
11850 391st Avenue  
Columbia, SD 57433-7002

The Honorable Matthew Michels  
State Representative  
1213 Walnut Street  
Yankton, SD 57078

Subscribed and sworn to  
before me this 3rd day  
of February, 2000.

  
Notary Public - South Dakota

  
Delaine Kolbo

(SEAL)

My Commission Expires:

CLARENCE HOSBCK  
Notary Public  
My Commission Expires May 18, 2004

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

APPROVAL OF RULES

Following public hearing held on January 10, 2000, the following rules are approved and  
will become effective twenty days after filing with the Secretary of State.

Proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03,  
20:10:24:02 and 20:10:32:03.

Date February 2, 2000

Date 2/8/00

PUBLIC UTILITIES COMMISSION

Doug Dwyer  
LEGISLATIVE RESEARCH COUNCIL  
(for legality and for form and style)

James A. Burg  
James A. Burg, Chairman

Pam Nelson  
Pam Nelson, Commissioner

Laska Schoenfelder  
Laska Schoenfelder, Commissioner

~~20:10:01:09. Service of complaint. If the commission believes that the~~  
~~complainant has a basis for an unlawful or unreasonable act, rate, practice, or~~  
~~service, the~~ The commission shall forward to the respondent a statement of the  
complaint and a notice requiring the respondent to satisfy the complaint or answer it in  
writing within 20 days from the date of service of the notice or within such further time  
as may be specified by the commission.

Source: SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR  
151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-1-11(2), 49-34A-4(6).

Law Implemented: SDCL 49-1-11(2), 49-13-1, 49-34A-4(6).

Cross-Reference: Manner of service, § 20:10:01:22.03.

~~20:10:01:11.01. Defenses to complaint. The defense that the complainant~~  
~~does not have a good or sufficient reason for making a complaint, that the complainant~~  
~~is without standing to make the complaint, or that a complaint fails to show probable~~  
~~causes or otherwise fails to conform to this chapter, may be raised by motion to dismiss~~  
~~or answer, at the option of the respondent. All other defenses to the complaint shall be~~  
~~raised by answer. An original and three copies of the motion to dismiss or answer,~~  
~~accompanied by proof of service of a copy thereof on the complainant shall be filed with~~  
~~the commission. The answer shall specifically admit or specifically deny material~~  
~~allegations of the complaint and may also contain a statement of new matters~~  
~~constituting an affirmative defense. If the respondent has no information or belief on the~~  
~~subject sufficient to enable the respondent to answer an allegation of the complaint, the~~  
~~respondent may so state in the answer and place a denial upon that ground.~~

~~Source:~~ 2 SDR 53, effective February 2, 1976; transferred from § 20:10:14:15.  
12 SDR 32, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1,  
1985.

General Authority: SDCL 49-1-11(2), 49-34A-4(6).

Law Implemented: SDCL 49-1-11(2), 49-13-1, 49-34A-4(6).

Cross-Reference: Service of complaint, § 20:10:01:09.

20:10:17:03. Information on bills. Bills provided to customers for electric and  
~~gas service shall include, but are not limited to,~~ the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if

~~applicable:~~

(8) If an estimated bill, clear and conspicuous language identifying the bill as an  
~~estimated bill;~~

(9) Tax, fuel, or power adjustment clause separately itemized, if applicable; and  
(10) A statement that customer information is available upon request and where  
~~it can be obtained;~~

~~(11) A statement that the customer is responsible for payment of all charges for~~  
~~service rendered.~~

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

Source: 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-34A-4(3)(14).

Law Implemented: SDCL 49-34A-3, 49-34A-4(3)(14), 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service -- Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

interest in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

**Source:** 18 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32:03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

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

**General Authority:** SDCL 49-31-76.

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

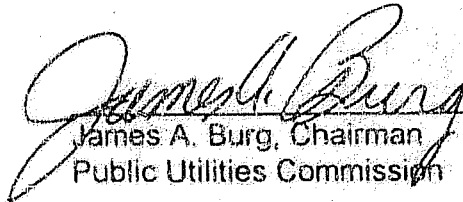
IN THE MATTER OF THE  
REGULATION OF  
ADMINISTRATIVE RULES

CERTIFICATE

I, James A. Burg, 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 rules adopted by the Public Utilities Commission on February 2, 2000:

Proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03, 20:10:24:02 and 20:10:32:03.

I further certify that SDCL 1-26-4 and 1-26-6 were complied with in the adoption of these rules. These rules will become effective twenty days after filing with the Secretary of State.

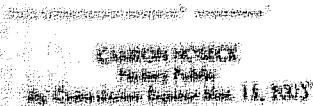
  
James A. Burg, Chairman  
Public Utilities Commission

Subscribed and sworn to  
before me this 15<sup>th</sup> day  
of February, 2000.

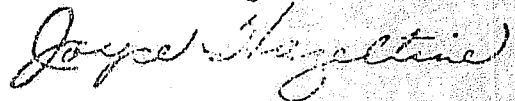
  
Notary Public - South Dakota

(SEAL)

My Commission Expires

  
CLARENCE HOSACK  
Notary Public  
My Commission Expires Nov. 11, 2003

Filed this 16<sup>th</sup> day of  
February, 2000



SECRETARY OF STATE

IN THE MATTER OF THE  
PROMULGATION OF  
ADMINISTRATIVE RULES

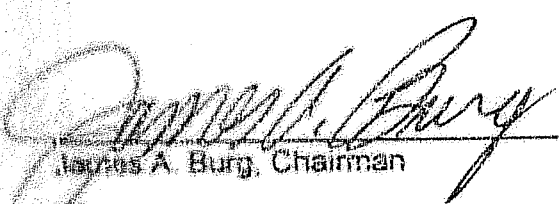
APPROVAL OF RULES

Following public hearing held on January 10, 2000, the following rules are approved and  
will become effective twenty days after filing with the Secretary of State.

Proposed revised rules: §§ 20:10:01:09, 20:10:01:11.01, 20:10:17:03,  
20:10:24:02 and 20:10:32:03.

Date February 2 2000


PUBLIC UTILITIES COMMISSION

  
James A. Burg, Chairman

  
Pam Nelson, Commissioner

  
Leika Schoenfelder, Commissioner

Date 2/8/00

  
LEGISLATIVE RESEARCH COUNCIL  
(for legality and for form and style)

**20:10:01:09. Service of complaint.** ~~If the commission believes that the complaint shows probable cause of an unlawful or unreasonable act, rate, practice, or condition, the~~ The commission shall forward to the respondent a statement of the complaint and a notice requiring the respondent to satisfy the complaint or answer it in writing within 20 days from the date of service of the notice or within such further time as may be specified by the commission.

**Source:** SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

**General Authority:** SDCL 49-1-11(2), 49-34A-4(6).

**Law Implemented:** SDCL 49-1-11(2), 49-13-1, 49-34A-4(6).

**Cross-Reference:** Manner of service, § 20:10:01:22.03.

**20:10:01:11.01. Defenses to complaint.** The defense that the complainant does not have a good or sufficient reason for making a complaint, that the complainant is without standing to make the complaint, ~~or that a complaint fails to show probable cause~~ or otherwise fails to conform to this chapter, may be raised by motion to dismiss or answer, at the option of the respondent. All other defenses to the complaint shall be raised by answer. An original and three copies of the motion to dismiss or answer, accompanied by proof of service of a copy thereof on the complainant shall be filed with the commission. The answer shall specifically admit or specifically deny material allegations of the complaint and may also contain a statement of new matters constituting an affirmative defense. If the respondent has no information or belief on the subject sufficient to enable the respondent to answer an allegation of the complaint, the respondent may so state in the answer and place a denial upon that ground.

Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:15,  
12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1,  
1986.

General Authority: SDCL 49-1-11(2), 49-34A-4(6).

Law Implemented: SDCL 49-1-11(2), 49-13-1, 49-34A-4(6).

Cross-Reference: Service of complaint, § 20:10:01:09.

20:10:17:03. Information on bills. Bills provided to customers for electric and  
gas service shall include, but are not limited to, the following information:

- (1) The meter reading and the date the meter was read;
- (2) The number and kinds of units metered;
- (3) Identification of the applicable rate schedule;
- (4) The amount of the bill;
- (5) The date on which the bill will become delinquent;
- (6) The late fee, if applicable;
- (7) The date on which payment must be made in order to avoid the late fee, if  
applicable;
- (8) If an estimated bill, clear and conspicuous language identifying the bill as an  
estimated bill;
- (9) Tax, fuel, or power adjustment clause separately itemized, if applicable; and
- (10) A statement that customer information is available upon request and where  
it can be obtained;
- (11) A statement that the customer is responsible for payment of all charges for  
service rendered.

The bill sent to the customer shall include only information related to the customer's account and advertising approved by the commission.

Source: 3 SDR 2, effective July 19, 1976; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-34A-4(3)(14).

Law Implemented: SDCL 49-34A-3, 49-34A-4(3)(14), 49-34A-27.

**20:10:24:02. Certificate of authority for interexchange service -- Application requirements.** Each telecommunications company required to apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 for interexchange service shall provide the following information with the company's application unless the commission grants a waiver to omit a specific item of information:

- (1) The name, address, and telephone number of the applicant;
- (2) The name under which the applicant will provide these services if different than in subdivision (1) of this section;
- (3) If the applicant is a corporation:
  - (a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;
  - (b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and
  - (c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management

percent in the applicant corporation and the amount and character of the ownership or management interest;

(4) If the applicant is a partnership, the name, title, and business address of each partner, both general and limited;

(5) A description of the telecommunications services the applicant intends to offer;

(6) A detailed statement of the means by which the applicant will provide its services;

(7) The geographic areas in which the services will be offered or a map describing the service area;

(8) Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service;

(9) The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters;

(10) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency

in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

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

(12) Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services;

(13) Federal tax identification number;

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

(15) A written request for waiver of those rules the applicant believes to be inapplicable; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (2), (7), and (9) and subsection (3)(b) of this section as they occur. If a company revises its tariff, the revised tariff sheets shall be provided to the commission.

**Source:** 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-3.

**Law Implemented:** SDCL 49-31-3.

**20:10:32-03. Certificate of authority for local exchange service --**

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

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

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

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

(4) If a corporation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Financial information including:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(23) Federal tax identification number; and

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

The commission may require the production of an audited financial statement and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (13), and (18) and subsection (4)(a) of this section as they occur. However, a telecommunications

company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.

**Source:** 25 GDR 89, effective December 27, 1998.

**General Authority:** SDCL 49-31-76.

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



# Legislative Research Council

RECEIVED

APR 03 2000

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Rep. Kenneth G. McNenny, Chair  
Sen. Arnold M. Brown, Vice Chair

Terry C. Anderson, Director  
Doug Decker, Code Counsel

## MEMORANDUM

April 3, 2000

TO: Rules Contacts  
FROM: Doug Decker, Code Counsel *Decker*  
RE: Rules Meeting

In order to facilitate the presentation of your rules to the Interim Rules Review Committee at the meeting on April 19, 2000, please deliver eight copies of your rules in their current form to the Legislative Research Council no later than 5:00 p.m. on Monday, April 17, 2000.

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 best and most recent version of your rules.

Department of Health: Medical Services – critical access hospitals, standards of health, safety, and sanitation in nursing and assisted living centers; Adult Foster Care.

Bureau of Personnel: Career Service Commission – selection, recruitment, and promotion of career service employees.

Department of Environment and Natural Resources – require public water systems to provide water quality reports to customers.

Senator Dennert

Office of School and Public Lands – regulate exchanges of School and Public Lands with private lands.

Department of Agriculture: State Fair Commission – changes in concession/vendor, camping and exhibitor contract/application return dates and concession/vendor, camping and exhibitor refund request or cancellation dates.

Department of Agriculture – create a farm operating loan program and allow Value Added Finance Authority to set net worth requirements.

12:00 noon Lunch

Representative Michels

South Dakota Gaming Commission – Deadwood gambling prohibit licensees from gambling at place of employment; make slot machine rules consistent with current practices and procedures; make racing rules comply with model rules on racing; make pari-mutuel racing more secure.

Attorney General – qualifications and training for certification of reserve law enforcement officers and officer units.

Department of Commerce and Regulation: Appraiser Certification – amend definitions, time limit for applications, exam approval time limit, experience requirements, time limit for qualifying education, update references, no refund for fees, anonymous complaint requirements, disciplinary action, clarify temporary permit, instructors maintain course manual, education providers use specified course.

Department of Commerce and Regulation: Board of Podiatry – revise and clarify language, specify continuing education requirements, increase application fees, update code of ethics, amend exam requirements.

Department of Commerce and Regulation: Counselor Examiners – establish late fee for annual license renewal.

Senator Bogue

Public Utilities Commission – streamline regulatory procedures, simplify billings by gas and electric utilities.

Public Utilities Commission: One-Call Notification Board – clarify one-call notification procedures.

Education and Cultural Affairs: Board of Education – special education and early intervention policies and procedures consistent with Individuals With Disabilities Education Act.

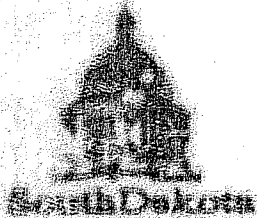
2:00 p.m. Staff directives, adjournment

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.

Attest: Senator Jerry Sorensen, Chair; Representative Orville Smidt, Vice Chair; Senators Eric Bogue and H. Paul Dennert; and Representatives William Cairy and Jonathan Wiest.

NOTE: Individuals requiring assistance, pursuant to the Americans with Disabilities Act, should contact the Legislative Research Council (605/773-1234) in advance of the meeting to make any necessary arrangements.

This agenda and all committee minutes are available on the LRC section of the South Dakota Homepage ([www.state.sd.us](http://www.state.sd.us)).



# Legislative Research Council

## RULES REVIEW COMMITTEE MINUTES

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### RULES REVIEW COMMITTEE

Two Hundred Eleventh Meeting  
Wednesday  
April 19, 2000

LCR 1 & 2  
State Capitol Building  
Pierre, South Dakota

The two hundred eleventh meeting of the Rules Review Committee was called to order by Chief Senator Jerry Shoener at 9:00 a.m., April 19, 2000, in Legislative Conference Rooms 1 & 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Eric Bozue, H. Paul Dennert, and Jerry Shoener; and Representatives William Cerny and Orville Smidt. Representative Matthew Michels was unable to attend.

Staff members present included Doug Decker, Code Counsel, and Phyllis Petersen, Senior Legislative Secretary.

All material distributed at the meeting is attached to the original minutes on file in the Legislative Research Council. For the purpose of continuity, these minutes are not necessarily in chronological order.

### Approval of Minutes

Senator Dennert moved, seconded by Representative Smidt, that the minutes of the December 14, 1999, meeting be approved as printed and mailed. Motion prevailed on a voice vote.

### Rules Reviewed

Department of Commerce and Regulation: Electrical Commission – create more electrical inspectors for residential dwellings and noncommercial farmsteads.

Mr. Ron Nagle explained that the new rules were necessary because of a backlog of residential inspections. The Commission has hired five additional residential inspectors.

A motion was made by Representative Cerny, seconded by Representative Smidt, to approve the rules proposed by the Electrical Commission. Motion prevailed on a voice vote.

Department of Commerce and Regulation: Division of Securities – licensing requirements for investment advisers and adviser representatives.

Mr. Dale Shoppick summarized the changes in the Division of Securities rules.

A motion was made by Senator Shoener, seconded by Senator Dennert, to approve the Game, Fish and Parks rules. Motion prevailed on a voice vote.

**Division of Personnel: Career Service Commission** – selection, recruitment, and promotion of career service employees.

Mr. Bob Sahr explained the rules on selection and promotion of career service employees, and Ms. Ellen Zeltzer summarized the rules relating to recruitment.

Mr. Ken Mathis, South Dakota State Employees Organization, presented the committee with a document outlining comments and opinions in opposition to the career service rules (Attachment 1).

A motion was made by Senator Shoener, seconded by Representative Smidt, to accept the document for the record. Motion prevailed on a voice vote.

A motion was made by Senator Shoener, seconded by Representative Smidt, to approve the Division of Personnel rules. Motion prevailed on a voice vote, with Senator Bogue voting no.

**Department of Environment and Natural Resources** – require public water systems to provide water quality reports to customers.

Mr. Joe Nadinecek and Mr. Darrin Busch summarized the rules relating to the water quality reports. Senator Bogue requested a copy of the federal law on public water systems. The department will provide each committee member with this information.

A motion was made by Senator Shoener, seconded by Senator Dennert, to approve the rules proposed by the Department of Environment and Natural Resources.

**Office of School and Public Lands** – regulate exchanges of School and Public Lands with private lands.

Commissioner Curt Johnson summarized the rules and said the exchanges are working well.

A motion was made by Representative Cerny, seconded by Representative Smidt, to approve the rules proposed by the Office of School and Public Lands. Motion prevailed on a voice vote.

**Department of Agriculture: State Fair Commission** – changes in concession/vendor, camping and exhibitor contract/application return dates and concession/vendor, camping and exhibitor refund request or cancellation dates.

No representative from the State Fair Commission appeared to discuss the rules. They have been filed in the Secretary of State's Office.

A motion was made by Senator Dennert, seconded by Representative Smidt, to approve the State Fair Commission rules. Motion prevailed on a voice vote.

**Public Utilities Commission** -- streamline regulatory procedures, simplify billings by gas and electric utilities.

Mr. Tim Bullard and Mr. Cameron Hosek summarized the rules changes.

*A motion was made by Representative Cerny, seconded by Senator Shoener, to approve the rules proposed by the Public Utilities Commission. Motion prevailed on a voice vote.*

**Department of Education and Cultural Affairs: Board of Education** -- special education and early intervention policies and procedures consistent with Individuals With Disabilities Education Act.

Ms. Deb Barnett explained the changes in the special education rules, and Ms. Barb Hemmelman summarized the early intervention rules.

*A motion was made by Senator Dennert, seconded by Representative Cerny, to approve the rules proposed for the Department of Education and Cultural Affairs. Motion prevailed on a voice vote.*

*Representative Smidt moved, seconded by Senator Bogue, that the committee adjourn. Motion prevailed on a voice vote.*

The committee adjourned at 2:05 p.m.

