

CHAPTER 20:10
GENERAL RULES OF PRACTICE

Section

20:10:01:01	Sessions of commission.
20:10:01:01.01	Definitions.
20:10:01:01.02	Use of rules of civil procedure.
20:10:01:02	Appearances.
20:10:01:02.01	Communications with commissioners.
20:10:01:02.02	Filing documents with the commission.
20:10:01:02.03	Contents and filing of pleadings.
20:10:01:02.04	Withdrawal and dismissal of pleading prior to final order.
20:10:01:02.05	Filing of documents.
20:10:01:03	Repealed.
20:10:01:04	Repealed.
20:10:01:05	Repealed.
20:10:01:06	Repealed.
20:10:01:07	Repealed.
20:10:01:07.01	Contents of consumer complaint.
20:10:01:08	Repealed.
20:10:01:08.01	Commission action on consumer complaints.
20:10:01:08.02	Complaints not in conformity.
20:10:01:09	Service of a consumer complaint -- Service of other complaints.
20:10:01:09.01	Service of documents by the commission.

20:10:01:10	Actions which satisfy complaint.
20:10:01:11	Repealed.
20:10:01:11.01	Defenses to complaint.
20:10:01:12	Applications for new rates, <u>Repealed</u> .
20:10:01:13	Repealed.
20:10:01:14	Adjournment and extensions.
20:10:01:15	Opportunity for hearing.
20:10:01:15.01	Burden in contested case proceeding.
20:10:01:15.02	Intervention.
20:10:01:15.03	Contents of petition to intervene.
20:10:01:15.04	Answer to petition to intervene.
20:10:01:15.05	Commission action on petition to intervene.
20:10:01:15.06	Individual's right to appear.
20:10:01:16	Amendments.
20:10:01:16.01	Response to amended pleadings.
20:10:01:17	Subpoenas.
20:10:01:17.01	Commission action on subpoena request.
20:10:01:17.02	Service of subpoena.
20:10:01:18	Repealed.
20:10:01:19	Stipulation.
20:10:01:20	Repealed.
20:10:01:21	Repealed.
20:10:01:22	Repealed.

20:10:01:22.01 Discovery -- Order to compel.

20:10:01:22.02 Notice of hearing.

20:10:01:22.03 Manner of service.

20:10:01:22.04 Change in time and place of hearing.

20:10:01:22.05 Hearing -- Opening statement.

20:10:01:22.06 Written testimony.

20:10:01:22.07 Exhibits at hearing.

20:10:01:23 Documentary evidence.

20:10:01:24 Procedure for filing documentary evidence.

20:10:01:24.01 Technical matter must be in exhibits.

20:10:01:24.02 Receipt of evidence.

20:10:01:24.03 Documentary exhibits furnished after close of hearing.

20:10:01:25 Briefs.

20:10:01:26 Repealed.

20:10:01:27 Repealed.

20:10:01:27.01 Reopening of the record.

20:10:01:28 Compliance with orders.

20:10:01:29 Rehearing or reconsideration.

20:10:01:30 Repealed.

20:10:01:30.01 Application for rehearing or reconsideration.

20:10:01:30.02 Answer to application for rehearing or reconsideration.

20:10:01:31 Repealed.

20:10:01:32 Information provided by commission.

20:10:01:33	Repealed.
20:10:01:34	Petition for declaratory ruling.
20:10:01:35	Commission action on petition.
20:10:01:36	Superseded.
20:10:01:37	Superseded.
20:10:01:38	Repealed.
20:10:01:39	Confidential information defined.
20:10:01:40	Confidential treatment of information.
20:10:01:41	Requests for confidential treatment of information by a submitting party.
20:10:01:41.01	Requests for confidential treatment of information by a non-submitting party.
20:10:01:42	Requirements for proving confidentiality.
20:10:01:43	Requests for access to confidential information.
20:10:01:44	Use of confidential information in commission orders.
20:10:01:45	Order to show cause -- Service, notice, contents.

20:10:01:12. Applications for new rates. ~~Any application for a new rate, fare, or charge filed with the commission shall include statements of facts, expert opinions, and substantiating documents and exhibits supporting the change requested. The application shall also state the change proposed to be made in the rates then in force and the time when the new rates will go into effect. The commission may request additional information, statistics, and data that the commission deems necessary for its investigation~~ Repealed.

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.~~

Law Implemented: ~~SDCL 49-10-12.~~

20:10:01:17.02. Service of subpoena. A subpoena ~~shall~~must be served and enforced in the manner prescribed by law for subpoenas in civil actions. If a person fails to comply with a subpoena served upon the person, the commission may stay further proceedings until the subpoena is obeyed. If a person who fails to obey the subpoena is a party to the proceeding or an officer, member, or employee of a party, the commission may strike all or any part of any pleading of the party, refuse to allow the party to support or oppose designated claims or defenses, or delay the proceeding ~~or any part of it.~~

Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:37, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 49-1-11.

Law Implemented: SDCL 1-26-19.1, ~~49-3-14, 49-3-15.~~

20:10:12:15. Financial criteria for licensing. ~~At a minimum, for~~ For a class A license, the applicant's balance sheet must show a positive net worth of ~~\$100,000~~ at least \$250,000. However, to offer voluntary credit sale contracts, a class A license applicant's balance sheet must show a positive net worth of at least \$500,000. ~~At a minimum, for~~ For a class B license the applicant's balance sheet must show a ~~positive net worth of at least \$100,000~~ and show current assets greater than current liabilities. In determining net worth and working capital for a class A or class B applicant, the commission may disallow the following assets if the assets are withdrawals of equity or are uncollectible:

- (1) Accounts and notes receivable from or advances to stockholders, owners, partners, employees, or affiliates;
- (2) Accounts receivable over ~~180~~ one hundred eighty days old;
- (3) Investments or equities in cooperatives; or
- (4) Goodwill.

~~At a minimum, the~~ The balance sheet for a class A or class B applicant must show current assets greater than current liabilities. ~~In determining working capital, the commission may disallow the following assets if the assets are withdrawals of equity or are uncollectible:~~

-

- ~~—— (1) Accounts and notes receivable from or advances to stockholders, owners, partners, employees, or affiliates;~~
- ~~—— (2) Accounts receivable over 180 days old;~~
- ~~—— (3) Investments or equities in cooperatives; or~~
- ~~—— (4) Goodwill.~~

Source: 24 SDR 190, effective July 15, 1998; 40 SDR 39, effective September 9, 2013.

General Authority: SDCL 49-45-6~~(5)~~.

Law Implemented: SDCL 49-45-7.

20:10:26:04. Individual metering -- When not required. Individual meters are not required and no variance need be requested ~~under the following circumstances:~~

(1) For residential multiple-occupancy buildings consisting of only two units, of which one unit is occupied by the owner of the building;

(2) For hospitals, nursing homes, transient hotels and motels, dormitories, campgrounds, and other residential facilities of a strictly transient nature;

(3) For existing multiple-occupancy buildings ~~which~~ that currently receive either master metered gas service or electric service, or both;

(4) For existing mobile home courts and trailer parks;

(5) For multiple-occupancy residential buildings where gas service is used only for either gas ranges or gas dryers, or both; ~~and or~~

(6) For multiple-occupancy buildings ~~which~~ that have central heating or cooling systems, central ventilating systems, or central water heating systems. ~~However, the applicant shall notify the commission so it may determine whether the applicant's system falls within this exception or whether the applicant is required to file an application for a variance.~~

~~—— If a building does not fall within one of the exceptions listed in this section or does fall within one of the subdivisions of § 20:10:26:03, the applicant may file an application for a variance with the commission consistent with this chapter. If a building falls within one of the subdivisions listed in § 20:10:26:03 and does not fall within one of the exceptions listed in this rule, the applicant may file an application for a variance with the commission consistent with this chapter.~~

Source: 18 SDR 26, effective August 7, 1991.

General Authority: SDCL ~~49-1-11~~, 49-34A-4, 49-34A-27.

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

Collateral References: **In the Matter of the Investigation of Master Metering**, Docket F-3237, Decision and Order dated June 13, 1980 (Errata Notice dated December 22, 1980); **In the Matter of the Investigation of Master Metering** , Docket F-3237, Decision and Order dated July 24, 1981; **In the Matter of the Petition For Declaratory Ruling by S&D Metering, Ltd.**, F-3621, Declaratory Ruling and F-3237, Modifying in Part, Decision and Order dated October 2, 1986.

20:10:26:06. Notice requirements if no hearing is requested. If the applicant has not requested a hearing, the commission ~~shall~~ must serve notice on the affected utility company and all parties within ~~15~~ fifteen days after receipt in the commission's offices of a variance application ~~which~~ that is in compliance with the provisions of § 20:10:26:05. The parties served notice of the variance request ~~shall~~ have ~~15~~ fifteen days to respond to the notice. Failure of the parties ~~who are served~~ notice to request a hearing within ~~15~~ fifteen days after service of the notice is considered a waiver of hearing. ~~The commission shall publish a notice in the legal newspaper for the nearest city or town in which the variance is requested.~~

If the hearing is waived, the commission ~~shall~~ must consider the application without a hearing and enter its decision.

Source: 18 SDR 26, effective August 7, 1991.

Source: 18 SDR 26, effective August 7, 1991.

General Authority: SDCL ~~49-1-11~~, 49-34A-4, 49-34A-27.

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

Collateral References: **In the Matter of the Investigation of Master Metering**, Docket F-3237, Decision and Order dated June 13, 1980 (Errata Notice dated December 22, 1980); **In the Matter of the Investigation of Master Metering**, Docket F-3237, Decision and Order dated July 24, 1981; **In the Matter of the Petition For Declaratory Ruling by S&D Metering, Ltd.**, F-3621, Declaratory Ruling and F-3237, Modifying in Part, Decision and Order dated October 2, 1986.

20:10:32:52. Annual certification requirements for designated eligible telecommunications carriers. Consistent with 47 C.F.R. §§ 54.313 and 54.314 (January 1, 2006), an eligible telecommunications carrier shall request the commission to file an annual certification with the Universal Service Administrative Company and the Federal Communications Commission stating that all federal high-cost support provided to the carrier will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. An eligible telecommunications carrier shall file its request for annual certification with the commission ~~on or before August 1, 2006, and by June~~ July first of each year ~~thereafter~~. Failure of an eligible telecommunications carrier to file by the deadline may result in the commission's inability to provide certification ~~to the Universal Service Administrative Company and the Federal Communications Commission~~ by the following October first.

Source: 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-78.

20:10:37:10. Pipeline operator's incident reporting requirements. As soon as reasonably possible, but no later than one hour, following confirmed discovery as found in ~~the Code of Federal Regulations, Title 49, C.F.R. Part 191 as of (July 1, 2021 2023)~~, of an incident, the pipeline operator shall notify the commission by phone of any incident on the pipeline system owned or operated by the pipeline operator. The notification ~~shall~~ must include the identity of the pipeline operator, the time and location of the incident, whether there are ascertainable fatalities, personal injuries requiring inpatient hospitalization, or property damage, or both, and any other significant facts and public dangers relevant to the incident. This reporting requirement does not relieve the pipeline operator of the federal reporting requirements as found in ~~the Code of Federal Regulations, Title 49, Part C.F.R. Part 191 as of (July 1, 2021 2023)~~. This reporting requirement requires personal notification to an inspector. The commission must make inspector ~~Inspector~~ contact information ~~shall be provided by the commission~~ available on the commission's website.

Source: 36 SDR 57, effective October 19, 2009; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-34B-4, 49-34B-19.

Law Implemented: SDCL 49-34B-3, 49-34B-4, 49-34B-5 49-34B-7, 49-34B-19, 49-34B-27.

20:10:37:17. Change of ownership. Each pipeline operator, upon finalization of an agreement to purchase or sell a jurisdictional gas pipeline facility subject to the provisions of ~~the Code of Federal Regulations, Title 49, C.F.R. Part 192-as of (July 1, 2021~~ 2023), must, within ~~30~~ thirty business days, submit to the commission's pipeline safety program a written notification of this agreement. This rule does not apply to any transaction made pursuant to SDCL 49-34A-35.

Source: 36 SDR 57, effective October 19, 2009; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-34B-4, 49-34B-19.

Law Implemented: SDCL 49-34B-3, 49-34B-4, 49-34B-19, 49-34B-27.

20:10:37:18. Notice requirements for transmission line construction. Each transmission pipeline operator within the jurisdiction of the pipeline safety program shall, prior to the construction of a new transmission line, or a relocation or replacement of a transmission line as defined in ~~the Code of Federal Regulations, Title 49, C.F.R. Part 192 as of~~ (July 1, ~~2021~~ 2023):

(1) Submit the information below to the commission's pipeline safety program no later than ~~60~~ sixty days prior to the commencement of construction, relocation, or replacement:

- (A) Pipeline operator's name and mailing address;
- (B) Estimated dates construction is scheduled to begin and end;
- (C) Map showing the location and proposed route of pipeline;
- (D) Identified gas transmission Integrity Management Program high consequence area, if applicable;
- (E) Proposed steel pipeline specifications, including size, weight, grade, wall thickness, and coating;
- (F) Proposed plastic pipe specifications, including size and Standard Dimension Ratio;
- (G) Proposed design and maximum allowable operating pressure of pipeline;
- (H) Pressure test procedures and method of pressure test prior to operations;
- (I) Proposed type of cathodic protection;
- (J) Minimum burial depths of pipeline at time of construction;
- (K) Proposed location and type of pipeline safety equipment;
- (L) Proposed type of highway and water crossing, such as whether it will be bored and cased, bored only, or trenched;
- (M) Written construction procedures;
- (N) Name of construction company if known at the time of filing the Notice; and

- (O) Pipeline operator's contact name and phone number;
 - (2) In the event of an emergency, as defined in the pipeline operator's operations manual, give telephonic notice of emergency construction, relocation, or replacement to the commission's pipeline safety program;
 - (3) Significant construction modifications shall be submitted to the pipeline safety program;
- and
- (4) Submit the information below to the commission's pipeline safety program no later than ~~60~~ sixty days prior to the commencement of operation:
 - (A) Operation and maintenance manual;
 - (B) Emergency procedures;
 - (C) Anti-drug and alcohol plan;
 - (D) Public Awareness plan;
 - (E) Damage prevention program;
 - (F) Abnormal operations; ~~and~~
 - (G) Operator's qualification plan; and
 - (H) Integrity Management Plan.

Source: 36 SDR 57, effective October 19, 2009; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-34B-4, 49-34B-19.

Law Implemented: SDCL 49-34B-3, 49-34B-4, 49-34B-8, 49-34B-19, 49-34B-27.

20:10:37:19. Annual report. Each pipeline operator shall submit to the commission a copy of either its United States Department of Transportation Form RSPA F 7100.1-1 ~~and/or~~ or Form RSPA F 7100.2-1, or both. A copy of the report shall be submitted by March ~~15~~ fifteenth each year for the preceding calendar year.

This reporting requirement does not relieve the operator of its federal reporting requirements as found in 49 C.F.R. §§ 191.11 and 191.17 ~~as of~~ (July 1, ~~2021~~ 2023).

Source: 36 SDR 57, effective October 19, 2009; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-34B-4, 49-34B-19.

Law Implemented: SDCL 49-34B-3, 49-34B-4, 49-34B-6, 49-34B-7, 49-34B-19, 49-34B-27.