

20:10:01:02.01. Communications with commissioners. All correspondence with the commission must be addressed to the commission's executive director at the commission's principal office or via electronic mail addressed to the commission's executive director. Official correspondence with the commissioners may not be addressed to an individual commissioner unless specifically authorized by law.

Source: 16 SDR 148, effective March 22, 1990.

General Authority: SDCL 49-1-11.

Law Implemented: SDCL 49-1-8.2.

20:10:01:02.05. Filing of documents. Unless otherwise allowed by statute, rule, or commission order and as provided below, any document filed with the commission must be filed electronically as a .pdf file via the commission's website. If the document is unable to be filed as a .pdf file, the document must be filed using another widely used file format. If a person is requesting confidential treatment of any information, that information must be filed electronically as a separate document and the confidential designation must be noted in the subject line of the electronic filing. If a person is unable to file the document electronically due to technical reasons or lack of electronic filing capabilities, the person must file the original document with the commission by mail or hand delivery. These filing requirements apply to all documents unless otherwise specified in this article or required by the commission.

Any document for consideration by the commission must be filed at least twenty-four hours prior to the commission meeting or hearing during which the document is to be considered, unless good cause is offered by the filing party for the delay or unless otherwise ordered by the commission.

Source: 18 SDR 26, effective August 7, 1991; 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 49-1-11(2)(4)(6).

Law Implemented: SDCL 49-1-11(4).

Cross-References:

Contents of consumer complaint, § 20:10:01:07.01.

Requests for confidential treatment of information by a submitting party, § 20:10:01:41.

20:10:01:32. Information provided by commission. The executive director of the commission shall, upon request, provide a party with information regarding the proper filing of pleadings with 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; 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-1-11(4).

Law Implemented: SDCL 49-1-8.2, 49-1-11(4).

CHAPTER 20:10:22
ENERGY FACILITY SITING RULES

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Declaratory Ruling: The Public Utilities Commission has filed a declaratory ruling with the Legislative Research Council in the Matter of the City of Flandreau Proposed Transmission Line. The City has asked if the proposed project is within the SDCL 49-41B-2.1 definition of a transmission line and associated facility, thereby requiring a SDPUC permit. On June 22, 1999, at its regularly scheduled meeting, the commission determined that the proposed 115kV transmission line is exempt from its siting jurisdiction because the entire line will be installed within the existing right-of-way on S.D. Highway 32 and the Industrial Park Road with the exception of the guying equipment for a corner pole. Declaratory Ruling EL99-010 dated June 25, 1999.

The Public Utilities Commission has filed a declaratory ruling with the Legislative Research Council. West River Electric Association, Inc., requested a ruling from the Commission regarding its jurisdiction over the siting of a new 115 kV transmission line near Rapid City. In the ruling, the Commission ordered that WREA's proposed transmission line is subject to the Commission's siting jurisdiction. Public Utilities Commission Declaratory Ruling EL00-030 dated December 14, 2000.

20:10:22:05. Application contents. An application for a permit for a facility must contain the applicable information specified in §§ 20:10:22:06 to 20:10:22:25, inclusive, 20:10:22:36, and 20:10:22:39.

If the application is for a permit for an energy conversion facility, it must also contain the information specified in §§ 20:10:22:26 to 20:10:22:33, inclusive. If the application is for a permit for a transmission facility as defined in SDCL subdivision 49-41B-2.1(1), it must also contain the information specified in §§ 20:10:22:34, 20:10:22:35, and 20:10:22:41. If the application is for a permit for a transmission facility as defined in SDCL subdivision 49-41B-2.1(2), it must also contain the information specified in §§ 20:10:22:37, 20:10:22:38, and 20:10:22:41. If the application is for a permit for a wind energy facility or a solar energy facility, it must also contain the information specified in §§ 20:10:22:33.01 and 20:10:22:33.02.

The application must contain a list of each permit that is known by the applicant to be required for the facility from any other governmental entity at the time of the filing. The list of permits must be updated, if needed, to include any permit of which the applicant becomes aware after filing the application. The list must state when each permit application is to be filed. The application must also list each notification associated with the facility that is required to be made to any other governmental entity.

Source: 5 SDR 1, effective July 25, 1978; 7 SDR 41, effective November 3, 1980; 12 SDR 86, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 32 SDR 109, effective December 26, 2005; 38 SDR 116, effective January 10, 2012; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-41B-35(2).

Law Implemented: SDCL 49-41B-11, 49-41B-35.

20:10:22:40. Application for party status. A governmental agency or person, as specified in SDCL 49-41B-17, may be granted party status in a proceeding commenced pursuant to SDCL chapter 49-41B upon applying in writing to the commission on a form provided by the commission.

Unless otherwise ordered by the commission, the application must be filed within sixty days from the date the application is filed.

Source: 9 SDR 55, effective November 7, 1982; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 32 SDR 109, effective December 26, 2005.

General Authority: SDCL 49-41B-35.

Law Implemented: SDCL 49-41B-17.

20:10:22:41. Shapefiles to be provided for transmission line route. At the time an application for a permit for a transmission facility is filed, the applicant shall provide to the commission the shapefiles depicting the proposed route of the facility. The shapefiles must be compatible with ArcGIS. The commission may publish the shapefiles for public viewing on its website.

General Authority: SDCL 49-41B-35.

Law Implemented: SDCL 49-41B-11(2).

CHAPTER 20:10:32

LOCAL EXCHANGE SERVICE COMPETITION

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20:10:32:03. Certificate of authority for local exchange service -- Application requirements. A telecommunications company required by SDCL chapter 49-31 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 for good cause to omit a specific item of information:

- (1) The applicant's name, address, telephone number, web page URL, and e-mail address;
- (2) A description of the legal and organizational structure of the applicant's company;
- (3) The name under which the applicant will provide local exchange services, if different than in subdivision (1) of this section;
- (4) A copy of its certificate of authority to transact business in this state from the Secretary of State;
- (5) The location of the applicant's principal office, if any, in this state and the name and address of its current registered agent, if applicable;
- (6) A list containing the following information about the types of services the applicant seeks to offer and how the services will be provided:
 - (a) The classes of customers the applicant intends to serve;
 - (b) The date the applicant is to provide service and the extent to which service is to be provided through the use of the applicant's own facilities, the purchase of unbundled network elements, or resale;
 - (c) A description of all facilities that the applicant shall utilize to furnish the proposed local exchange services, including any facilities of underlying carriers; and
 - (d) The types of services the applicant seeks authority to provide, with reference to the general nature of each service;

(7) A description of the applicant's experience providing any telecommunications service in this state or in other jurisdictions, the type of service provided, and the date and nature of state or federal authorization to provide the service;

(8) The name and address of any affiliate, parent organization, or subsidiary of the applicant;

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

(10) For the most recent twelve-month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available;

(11) The name, address, telephone number, and e-mail address of the applicant's representative to whom all commission inquiries must be made regarding customer complaints and other regulatory matters;

(12) The applicant's plan to bill and collect charges from customers who subscribe to its proposed local exchange services;

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

(14) How the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services;

(15) How the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service provided to the customer by the applicant;

(16) A list of the states in which the applicant is registered or certified to provide telecommunications services, together with a statement as to whether the applicant:

(a) Has ever been denied registration or certification in any state, and the reasons for any denial; and

(b) Is in good standing with the appropriate regulatory agency in any state 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;

(17) A description of how the applicant intends to market its local exchange services, a description of its target market, a statement as to whether the applicant engages in multilevel marketing, and copies of any company brochure that is to be used to assist in sale of the services;

(18) The technical competence of the applicant to provide its proposed local exchange services as shown by:

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

(b) Any policy, personnel decision, or arrangement 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 requirement;

(19) How the applicant is to provide customers with access to 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services, and any other emergency service;

(20) 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 are likely to start; and

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

(21) 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 the applicant's plan for meeting the service obligations;

(22) A written request for waiver of any rule believed to be inapplicable; and

(23) 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 audited financial statements and additional information to supplement the information contained in the application. A company shall notify the commission of any change in information provided pursuant to subdivisions (1), (3), (4), and (11) of this section as the change occurs.

Source: 25 SDR 89, effective December 27, 1998; 26 SDR 110, effective March 7, 2000; 34 SDR 67, effective September 11, 2007.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-12.7, 49-31-69, 49-31-76.

20:10:32:12. Annual reporting requirements. After a telecommunications company has received a certificate of authority to provide local exchange services from the commission, the company shall submit to the commission by June first of each year thereafter a report of its annual revenues from the preceding year resulting from operations in this state.

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

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:21. Submission of negotiated agreement for approval. An agreement for interconnection, network elements, and other telecommunications services negotiated pursuant to SDCL 49-31-81 must be submitted to the commission for approval. The parties to the negotiated agreement shall submit a complete copy of the agreement, including any attachments. The parties shall also submit a summarization of the main provisions of the agreement, a statement as to why the agreement does not discriminate against any non-party carrier, and an explanation of whether the agreement is consistent with the public interest, convenience, and necessity.

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

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-81.

20:10:32:42. Designation of eligible telecommunications carriers. The commission, on its own motion or upon request, shall designate a telecommunications company that meets the requirements of 47 C.F.R § 54.201 (January 1, 2006) to serve as an eligible telecommunications carrier within each service area of the state.

Upon request and consistent with the public interest, convenience, and necessity, the commission may, in an area served by a rural telephone company, and shall, in all other areas, designate more than one telecommunications company as an eligible telecommunications carrier for a service area designated by the commission, so long as each additional requesting carrier meets the requirements of 47 C.F.R. § 54.201 (January 1, 2006).

The commission may not, in an area served by a rural telephone company, designate more than one eligible telecommunications carrier absent a finding that designation of an additional eligible telecommunications carrier is in the public interest. In an area served by a rural telephone company, the commission may not find the additional designation to be in the public interest if the telecommunications company requesting the designation does not offer its services coextensively with the rural telephone company's service area.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:43. Eligible telecommunications carrier petitions. A telecommunications company that desires designation as an eligible telecommunications carrier shall file a petition for the designation with the commission. The petition for designation must contain the following information:

(1) The name, address, e-mail, and telephone number of the applicant and its designated contact person;

(2) The proposed effective date of designation of eligible telecommunications carrier status;

(3) Identification of the service area, together with a detailed map, for which the designation is sought;

(4) A statement supporting the petition, which specifies why the requested designation satisfies the requirements for eligible telecommunications designation and receiving federal universal service support under 47 C.F.R § 54.201 (January 1, 2006);

(5) If the applicant, other than a wireless lifeline-only provider, is seeking additional time to complete network upgrades pursuant to 47 C.F.R. § 54.101(c) (January 1, 2006), the applicant must list the reasons why additional time is needed and the estimated length of time to complete the network upgrades; and

(6) A statement specifying why the applicant's proposed designation is in the public interest.

A company shall notify the commission of any change to the information provided in subdivision (1) of this section as the change occurs.

A wireless telecommunications company that has received a designation as a wireless lifeline-only eligible telecommunications carrier shall annually submit to the commission, by

July first of each year, the rates and service plans of any telecommunications service the company provides to its lifeline-only customers.

A lifeline-only provider is an eligible telecommunications carrier whose designation is limited to the lifeline program.

Source: 25 SDR 89, effective December 27, 1998; 32 SDR 231, effective July 10, 2006.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:43.02. Submission of two-year plan. An applicant requesting designation as an eligible telecommunications carrier and not a wireless lifeline-only designation, shall submit a two-year plan that details proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area. Each applicant shall demonstrate within its application the following on a wire center-by-wire center basis:

- (1) How service quality, signal quality, coverage, or capacity will improve due to the receipt of high-cost support;
- (2) The projected start date and completion date for each improvement and the estimated amount of investment for each project that is funded by high-cost support;
- (3) The specific geographic areas where the improvement is to be made; and
- (4) The estimated population that is to be served as a result of the improvements.

If an applicant determines that service improvements in a particular wire center are not needed, the applicant must explain its basis for this determination and demonstrate how funding is to be otherwise used to further the provision of supported services in that area.

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

General Authority: SDCL 49-31-3, 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:43.05. Offering of comparable local usage plan. Repealed.

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

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20:10:32:43.06. Provisioning of equal access. Repealed.

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

20:10:32:43.07. Public interest standard. Prior to designating an eligible telecommunications carrier, the commission shall determine that the designation is in the public interest, based upon the following considerations:

- (1) The benefits of increased consumer choice;
- (2) The impact of multiple designations on the universal service fund;
- (3) The unique advantages and disadvantages of the applicant's service offering;
- (4) Any commitments made regarding the quality of the telephone service provided by the applicant;
- (5) The applicant's ability to provide the supported services throughout the designated service area within a reasonable time frame;
- (6) Whether the designation of the applicant is likely to have detrimental effects on the provisioning of universal service by the incumbent local exchange carrier.

If an applicant seeks designation below the study area level of a rural telephone company, the commission must also conduct a creamskimming analysis that compares the population density of each wire center in which the applicant seeks designation against that of the wire centers in the study area in which the applicant does not seek designation. In its creamskimming analysis, the commission shall consider relevant factors pursuant to 47 C.F.R. § 54.315 (January 1, 2006) by the incumbent local exchange carrier. The creamskimming analysis is not required for a wireless lifeline-only eligible telecommunications applicant.

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

General Authority: SDCL 49-31-3, 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:53. Requirements for previously designated eligible telecommunications carriers and pending applications. Repealed.

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

General Authority: SDCL 49-31-3, 49-31-76, 49-31-77, 49-31-81.

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

20:10:32:54. Certification requirements. In its annual certification filing, each eligible telecommunications carrier shall provide the following information, on a calendar year basis, to the commission:

- (1) A two-year service quality improvement plan as described in § 20:10:32:43.02;
- (2) A progress report on its previously filed two-year service quality improvement plan, containing a clear description or a detailed map of the carrier's progress toward meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The telecommunications carrier must submit information concerning completed or planned network improvement projects must indicate which wire center areas or local communities are benefited by the improvements and must be submitted at the wire center level;
- (3) Detailed information on any outage, as defined in 47 C.F.R. § 4.5 (January 1, 2006), of at least thirty minutes in duration for each service area in which a carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes, if the outage affected at least ten percent of the end users served in a designated service area or a 911 special facility, as provided in 47 C.F.R. § 4.5(e) (January 1, 2006). Information on the outage must include:
 - (a) The date and time of onset of the outage;
 - (b) A brief description of the outage and its resolution;
 - (c) The particular services affected by the outage;
 - (d) The geographic areas affected by the outage;
 - (e) The steps taken to prevent a similar situation in the future; and
 - (f) The number of customers affected;

(4) The number of requests for service from potential customers within the carrier's service areas that were unfulfilled during the past year, with details about any attempts by the carrier to provide service to those potential customers, as set forth in § 20:10:32:43.01;

(5) The number of complaints the carrier's complaint department received from consumers during the previous calendar year;

(6) Certification that the carrier is complying with applicable service quality standards and consumer protection rules; and

(7) Certification that the carrier is able to function in emergency situations as set forth in § 20:10:32:43.03.

A lifeline-only wireless company that has been designated as an eligible telecommunications carrier is exempt from the requirements of this section.

Source: 32 SDR 231, effective July 10, 2006; 34 SDR 67, effective September 11, 2007; 47 SDR 125, effective May 30, 2021.

General Authority: SDCL 49-31-3, 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:32:55. Lifeline and link-up advertising requirements -- Annual report on outreach efforts. An eligible telecommunications carrier shall annually provide written notification of the availability of the federal lifeline and link-up assistance programs to each of its existing customers residing in the carrier's designated service area by written notification in either print or electronic form provided directly to the existing customers. A carrier shall provide written notification, in either print or electronic form, of lifeline and link-up assistance programs to any new customer residing in the carrier's designated service area within thirty days after the customer receives telecommunications services. A carrier shall annually advertise the availability of lifeline and link-up services in media of general distribution throughout its service areas. As part of its annual certification filing, a carrier shall submit a report to the commission on the carrier's outreach efforts designed to increase participation in the lifeline and link-up assistance programs. The carrier shall file by July first of each year its report on the carrier's outreach activities for the previous calendar year.

A Lifeline-only wireless company that has been designated as an eligible telecommunications carrier is exempt from this section.

Source: 32 SDR 231, effective July 10, 2006; 34 SDR 67, effective September 11, 2007.

General Authority: SDCL 49-31-3, 49-31-76, 49-31-77, 49-31-81.

Law Implemented: SDCL 49-31-3, 49-31-76, 49-31-78.

20:10:33:21. Prevention of access line service interruptions -- Reestablishment of service --

Priority given to customers with medical condition and certain entities. Each local exchange company shall make all reasonable efforts to prevent interruptions of access line service and shall mark facilities as required by the rules and regulations of the One-Call Notification System. When interruptions occur, the exchange carrier shall reestablish access line service with the shortest possible delay consistent with the physical conditions encountered, the available work force, and normal safety practices. Priority must be given to a residential customer who verifies in writing to the company that telecommunications service is essential due to an existing medical condition of the customer, a member of the customer's family, or any permanent resident of the premises where service is rendered. Priority also must be given to an entity that verifies in writing to the company that telecommunications services are needed to protect the public's health, safety, and welfare.

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

General Authority: SDCL 49-31-3, 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

20:10:33:27. Reporting requirements when 911 service is disrupted or impaired. Each local exchange company shall, immediately upon discovery of an unplanned outage on a facility that is owned, operated, leased, or utilized by the local exchange company, report to each 911 public safety answering point serving the affected local service area, to the local area broadcast media serving the affected local service area, and to the commission. The report shall contain pertinent information concerning any occurrence or development that disrupts or impairs the local service area's access to the 911 service within a given 911 system. In addition, each local exchange company shall provide the public safety answering point, the local area news media, and the commission with a time estimation on when the repair to the 911 system is to be completed and the 911 service restored.

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

General Authority: SDCL 49-31-3, 49-31-77, 49-31-85.

Law Implemented: SDCL 49-31-3, 49-31-77, 49-31-85.

20:10:37:01. Definitions. Terms defined in SDCL 49-34B-1 have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1) "Incident," any of the following events:

(a) A release of gas from a gas pipeline facility or of liquefied natural gas or gas from a liquefied natural gas facility; and

(i) A death, or personal injury necessitating in-patient hospitalization; or

(ii) Estimated property damage or cost of gas lost of the operator or another, or both, in the aggregate amount of \$145,000 or more;

(b) An event that results in an emergency shutdown of a liquefied natural gas facility; or

(c) An event that is significant, in the judgment of the operator, even though it did not meet the criteria of subdivisions (a) and (b) above;

(2) "Incident docket," a docket opened with the commission upon the initiation of an investigation of an incident;

(3) "Incident report," the report drafted by an inspector after an incident;

(4) "Inspection," a review of the books, files, records, reports, supplemental data, other documents and information, and an examination of the plant, property, and facilities of a pipeline operator to ensure compliance with applicable pipeline safety standards;

(5) "Inspection report," the report drafted by an inspector after an inspection of any type, except for an incident;

(6) "Inspector," a pipeline safety inspector employed by, or contracted as, an agent of the commission; and

(7) "Pipeline safety program," the program administered by the commission with regulatory jurisdiction over the safety standards and practices of all jurisdictional intrastate natural gas and other gas pipelines within this state.

Source: 36 SDR 57, effective October 19, 2009.

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

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