

ARTICLE 20:10

PUBLIC UTILITIES COMMISSION

Chapter

- 20:10:01 General rules of practice.
- 20:10:02 General motor carrier rules, Repealed.
- 20:10:03 Regulated motor carriers, Repealed.
- 20:10:04 Exempt motor carriers, Repealed.
- 20:10:05 General telecommunications company rules.
- 20:10:06 Telecommunications records.
- 20:10:07 Telecommunications subscriber billing rules.
- 20:10:08 Telecommunications credit.
- 20:10:09 Refusal of telecommunications service.
- 20:10:10 Disconnection of telecommunications service.
- 20:10:11 Public grain warehouses.
- 20:10:12 Grain buyers.
- 20:10:13 Public utilities rate filing rules.
- 20:10:14 Procedure rules for public utilities, Repealed or transferred.
- 20:10:15 General gas and electric rules.
- 20:10:16 Gas and electric utility records and public information rules.
- 20:10:17 Gas and electric customer billing rules.
- 20:10:18 Gas and electric service rules.
- 20:10:19 Establishment of gas and electric credit.
- 20:10:20 Refusal and disconnection of gas and electric service.
- 20:10:21 Energy facility plans.
- 20:10:22 Energy facility siting rules.
- 20:10:23 Gas and electric advertising rules.
- 20:10:24 Interexchange carrier and classification rules.

Commented [A1]: Style - This content needs to be added per ARSD DM, pg. 27.

*Please note that content in this packet has been revised so that one need only accept the edit for the edit to be in final, in-context form. You will want to double-check that we have done this for all edits, given the size of this packet. The one major exception is the formatting requirement commented on immediately below, which would, if revised in tracked changes, make this document far too busy and clunky, hence why the change was not made by LRC staff.

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Commented [A2]: Rules should be in Times New Roman font and page numbers should be in the footer. ARSD Drafting Manual pg. 5.

20:10:25 Telecommunications facility construction notice rules, Repealed.

20:10:26 Master metering variance rules.

20:10:27 Telecommunications switched access filing rules.

20:10:28 Telecommunications separations procedures.

20:10:29 Telecommunications switched access charges.

20:10:30 Assignment of N11 dialing codes, Repealed.

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

20:10:32 Local exchange service competition.

20:10:33 Service standards for telecommunications companies.

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

20:10:35 Telecommunications services.

20:10:36 Small generator facility interconnection.

20:10:37 Pipeline safety rules.

20:10:38 Renewable energy credits and renewable, recycled, and conserved energy.

20:10:39 Stray electrical current and voltage remediation rules.

Commented [A3]: Some of these fonts are scaled differently than others.

Commented [A4]: This should be double-spaced and aligned with the other text.

CHAPTER 20:10:01
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, <u>Repealed</u> .
20:10:01:11	Repealed.
20:10:01:11.01	Defenses to complaint.

20:10:01:12	Applications for new rates, Repealed.
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, <u>Repealed</u> .
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, Repealed.

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, Repealed.

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

20:10:01:25 Briefs, Repealed.

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.

Commented [A5]: Double-space and align with other text.

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.

20:10:01:08.01. Commission action on consumer complaints. ~~Upon the filing of a consumer complaint~~ When a consumer contacts the commission to make a consumer complaint, the commission ~~shall~~ may attempt to settle the complaint without formal action. If the consumer complaint cannot be properly disposed of informally or if the consumer chooses to file a formal complaint, the commission ~~shall~~ must proceed in accordance with the provisions of § 20:10:01:09.

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; 33 SDR 107, effective December 26, 2006.

General Authority: SDCL 49-1-11(2) ~~(4)~~, ~~49-34A-6~~.

Law Implemented: SDCL 49-1-11 ~~(2)~~ ~~(4)~~, 49-34A-6.

Commented [A6]: "[O]verstrike the single space before the deleted text." ARSD Drafting Manual pg. 6.

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Commented [A7]: Style - Please underscore new content. While the red font was a clue, the underscore is necessary per our style guide and is the most common means of denoting new content. ARSD DM, pg. 6.

Commented [A8]: Form - Current content should not be underscored, which suggests it is new content. Also, content that is to be removed should not be underscored.

Commented [A9]: Clarity - Generally, -ly words are eschewed because of the ambiguity. What does it mean to be "properly disposed"? The parties to the claim would only find a proper disposal to be when the matter is addressed informally in their favor?

Commented [A10]: Use "must" for "action required as a precursor to or condition of an occurrence." ARSD Drafting Manual pg. 14.

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Commented [A11]: Commas should only be placed between the code section numbers. ARSD Drafting Manual pg. 10.

Commented [A12]: Legality - There is no express rulemaking authority in SDCL 49-34A-6. It refers to PUC power to regulate rates and fees, but General Authority is express authority to promulgate rule (i.e., "shall promulgate rule, pursuant to chapter 1-26...."). See SDCL 1-26-6.2.

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Commented [A13]: Legality - Subdivision (2) only contains the subject area in which express rulemaking authority is provided—not the intelligible standards that are to guide rulemaking in that subject area. Subdivision (4) does contain intelligible standards—"all of which shall conform to those used in South Dakota courts."

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20:10:01:10. Actions which satisfy complaint. ~~The respondent shall, within the time specified by § 20:10:01:09, satisfy the complaint by making reparation for the injury alleged to have been done, correcting the wrong complained of, or answering the complaint by filing the answer with the commission and serving a copy on each complainant. If a respondent satisfies a complaint before or after answering, a written acknowledgment showing the character and extent of the satisfaction must be filed by the complainant, and a statement of the facts and manner of satisfaction may be filed as an answer. Upon approval of the commission, the complaint shall be dismissed. Repealed.~~

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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; 33 SDR 107, effective December 26, 2006.

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Commented [A14]: "The source note is retained even when a rule is repealed." ARSD Drafting Manual pg. 9.

~~**General Authority:** SDCL 49-1-11(2),(4), 49-34A-4(6).~~

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~~**Law Implemented:** SDCL 49-1-11(2),(4), 49-13-1, 49-13-3, 49-34A-4(6).~~

20:10:01:22.04. Change in time and place of hearing. ~~Changes in the time and place of the first session of the hearing in any proceeding shall be granted only for good cause shown. Notices of changes in time and place, if granted, shall be made to all parties to the proceeding and to persons who have appeared or who have petitions to intervene pending before the commission. The commission, upon its own motion and adequate notice to the parties, may change the time and place of any session.~~ Repealed.

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Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:26, 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

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~~**General Authority:** SDCL 49-1-11.~~

~~**Law Implemented:** SDCL 49-1-11.~~

20:10:01:22.07. Exhibits at hearing. ~~When exhibits have been prepared to be used at the hearing either as evidence or for illustrative purposes, or both, the parties shall have the exhibits marked prior to the hearing. If the exhibits have not previously been served on the other parties and filed with the commission, the party using exhibits shall provide copies of the exhibits at the hearing to the commissioners, commission and staff attorneys, the court reporter, and each party in the proceeding. If enlarged exhibits have been prepared for the hearing, copies of enlarged exhibits shall be reduced or folded to 8 1/2 inches by 11 inches in size prior to the hearing. If a party in a hearing does not follow the requirements of this section, the commission may or may not accept the exhibits at the hearing. A party to a proceeding must shall prefile electronically all exhibits the party intends to offer at an evidentiary hearing, unless otherwise ordered by the commission. All prefiled exhibits must be marked and served upon all other parties at the time of filing.~~

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

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

Law Implemented: SDCL 49-1-11(2)(4).

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Commented [A15]: Clarity - Where, or with whom?

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Commented [A16]: "Use the active voice whenever possible." ARSD Drafting Manual pg. 14.

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Commented [A17]: Legality - See above comments.

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20:10:01:23. Documentary evidence. ~~Where relevant and material matter offered in~~

~~evidence is contained in a lengthy book or document containing other matters not material or relevant and not intended to be put in evidence, the document shall not be filed. The party offering such evidence shall present to opposing parties and to the commission, in proper form for filing, true copies of such material and relevant matter only, so long as such copies are otherwise admissible. Repealed.~~

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

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~~General Authority: SDCL 49-1-11.~~

~~Law Implemented: SDCL 1-26-19.~~

20:10:01:24.02. Receipt of evidence.

~~Evidence shall be received in the order determined by the commission or presiding officer at the hearing.~~ Repealed.

Source: 2 SDR 56, effective February 2, 1976; transferred from § 20:10:14:20, 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.~~

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20:10:01:25. Briefs. ~~The commission in its discretion may order the filing of written briefs and when so ordering shall fix the due dates for filing. Briefs shall contain the following matters: statement of the case; abstract of the evidence relied upon by the party filing the brief; specific citations to facts contained in the record; and arguments, including references to decisions of the commission, other commissions, or the courts. If requested by the commission, the parties shall file proposed findings of fact. The requested findings must be stated separately and numbered. The briefs shall be filed with the commission and a copy shall be served on each party. Certification of service shall be filed with the briefs.~~
Repealed.

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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; 33 SDR 107, effective December 26, 2006.

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

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

20:10:01:41.01. Requests for confidential treatment of information by a non-submitting party. A request by a non-submitting party for confidential treatment of information ~~shall~~ **must** be made by submitting the request to the commission, along with the following information:

- (1) An identification of the document and the general subject matter of the materials or the portions of the document for which confidentiality is being requested;
- (2) The length of time for which confidentiality is being requested and a request for handling at the end of that time. This does not preclude a later request to extend the period of confidential treatment;
- (3) The name, address, and ~~phone~~ **telephone** number of a person to be contacted regarding the confidentiality request;
- (4) The statutory or common law grounds and any administrative rules under which confidentiality is requested. Failure to include all possible grounds for confidential treatment does not preclude the party from raising additional grounds in the future; and
- (5) The factual basis that qualifies the information for confidentiality under the authority cited.

~~Upon receiving receipt of a request for confidential treatment by a non-submitting party, the commission shall must immediately treat the information as confidential and shall may not be released until such time as a determination has been made pursuant to ARSD release the information unless the commission determines the information is not confidential pursuant to § 20:10:01:42 or all parties have agreed agree to the release. If the commission determines the information is confidential, the submitting party must submit both confidential and redacted versions within five business days of the receipt of the request or the date of the evidentiary hearing when the information will is to be used, whichever comes first.~~

~~The filing shall must be sent to the commission's executive director, unless another person is designated. Each page must clearly be marked "confidential" in prominent, bold print.~~

Source: 47 SDR 125, effective May 30, 2021.

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

Law Implemented: SDCL 49-1-9, 49-1-11, ~~(6)~~ **(4)**.

Commented [A18]: Clarity - Is the distinction between submitting and non-submitting party defined, or described with sufficiency? The word "submitting" appears only in two sections in article 20:10, and those sections do not describe the distinction between submitting and non-submitting.

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Commented [A19]: Are the materials part of the document? Consider:

An identification of the document or other materials and a description of the general subject matter of the document, other materials, or any portion for which confidential treatment is requested.

Commented [A20]: Consider:

"The requested period for confidential treatment of the information upon expiration of the period of confidential treatment."

Commented [A21]: "Telephone" is used elsewhere throughout the rules. Use consistent terms. ARSD Drafting

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Commented [A22]: Remove paragraph break at the end of this line.

Commented [A23]: Clarity - Subdivision (5) references "authority cited," which presumably hearkens back to this

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Commented [A24]: Legality - ARSD 20:10:01:42 appears to envision a "confidentiality determination" only resultin

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Commented [A25]: Does this mean within five business days after receipt of the request or at least five business

Commented [A26]: Style - "will" is not an imperative verb recognized in the ARSD DM, pg. 14. That is because "will"

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Commented [A27]: Avoid using the passive "shall be." ARSD Drafting Manual pg. 14.

Commented [A28]: Consider "page or portion" or "page or component" if it is possible the confidential information

Commented [A29]: Assuming the "filing" refers to the submitting party's submission—upon the commission's

Commented [A30]: Legality - This is General Authority—the express authority to promulgate rule in a given subject

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20:10:06:02. Public information. The rules of chapters 20:10:05 to 20:10:10, inclusive, and a telecommunications ~~companies'~~ company's tariffs, ~~shall must~~ be available either in ~~all telecommunications companies' business offices~~ the company's business office or on the company's website for commission and public inspection.

A telecommunications company shall furnish, upon request, a free copy of the rules and ~~a free copy of~~ necessary tariff pages ~~as reasonably requested~~, to any applicant for service or to any subscriber.

Source: SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 21 SDR 81, effective November 3, 1994.

General Authority: SDCL 49-31-5.

Law Implemented: SDCL ~~49-31-5~~ 49-31-12.2.

Commented [A31]: "Use the singular instead of the plural." ARSD Drafting Manual pg. 15.

Commented [A32]: Consider using active voice (e.g., "a telecommunications company shall post the rules..."). ARSD Drafting Manual pg. 14.

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Commented [A33]: Clarity - Consider striking this purpose statement. If the requirement is established with clarity, as was done here, what need is there for this information? Doesn't "public inspection" cover essentially everyone anyways?

Commented [A34]: Perhaps "relevant" would make more sense here?

Commented [A35]: What is a reasonable request? Avoid using this adverb without specifying what it means. ARSD Drafting Manual pg. 13.

Commented [A36]: Use of "requested" here is redundant since "upon request" is already used earlier in the sentence.

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Commented [A37]: Should SDCL 49-31-12.2 be included here?

Commented [A38]: Legality - Same issue with 49-31-5 being General Authority but not Law Implemented. It does seem like this rule section is guided in part by SDCL 49-31-12.2, at least with regard to the tariff publication requirement. But where does the requirement to make available the rules come from? 49-31-5(2)? You may ask whether it is more problematic that utilities must have a physical or electronic copy of the rules that exists outside of the official, legally cognizable rules found on LRC's ARSD website (SDCL 1-26A-1). Are they certain to update their in-house version? Do they link to the LRC website, or how does that work?

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20:10:06:03. Review. A telecommunications company involved in a dispute with a subscriber or applicant on any subject governed by chapters 20:10:05 to 20:10:10, inclusive, or on any other telecommunications service concern, shall inform the subscriber or applicant of the right to appeal a decision of the telecommunications company to the Public Utilities Commission, which may be contacted in person or in writing at 500 East Capitol Avenue, Pierre, South Dakota 57501-5070, ~~phone number or by telephone at 605-773-3201 or 1-800-332-1782.~~ Each telephone directory in the state shall contain in its instructional pages the statement. Each telecommunications company shall prominently publish a statement on its the company's website notifying the public that, which notifies the public:

(1) That dissatisfied persons may contact the commission at the above listed address and phone numbers.

Additionally, each telecommunications company shall prominently display, as well as a notice of telephone number;

(2) Of the subscriber's or applicant's review rights; and shall also display the fact that

(3) That the commission's rules and the telecommunications company's tariffs are available at the business office for inspection by interested persons and that free copies of necessary pages are also available as reasonably requested upon request.

Source: SL 1975, ch 16, § 1; 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 21 SDR 81, effective November 3, 1994.

General Authority: SDCL 49-31-5.

Law Implemented: SDCL 49-31-5 49-31-12.2.

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Commented [A39]: Reminder to "overstrike the single space before the deleted text" and "underscore the single space immediately before the new text." ARSD Drafting Manual pg. 6.

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Commented [A40]: Legality - Note that if any changes are made to the prior section with regard to the publication of rules, this may also need to be revised.

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20:10:12:05.02. Release of bonds. ~~An~~ During a license year, an original bond filed with the commission for the license year may not be released unless a new bond is executed to replace the original bond for the entire license year.

~~At the conclusion of the license year the~~ The commission may release a bond beginning one hundred twenty days following the conclusion of the ~~licensing~~ year if:

- 1) ~~No~~ A claim against the bond has not been received during the ninety-day claim period established in SDCL 49-45-19; and
- 2) The commission has conducted an inspection of the grain buyer after the conclusion of the license year and verified all cash purchases have been paid in full.

Source: 40 SDR 39, effective September 9, 2013.

General Authority: SDCL 49-45-6(1)(6).

Law Implemented: SDCL 49-45-9.

Commented [A41]: This language seems redundant.

Commented [A42]: Should this be "license"?

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Commented [A43]: Reminder to double-space. ARSD Drafting Manual pg. 5. Also, subdivisions should be designated by numbers enclosed in parentheses on the left and right--"(1)" rather than "1"--and should be entered manually instead of with the automatic numbering feature in Word.

Commented [A44R43]: Style - The autoformatting makes it much more difficult to underscore new ordinals for subdivisions.

20:10:12:13. Notice required to credit seller of grain. The terms of a voluntary credit sale of grain ~~shall must~~ contain the following statement: "This contract is not protected by South Dakota statutory bond coverages." ~~This The~~ statement ~~shall must~~ be printed in red or bold type immediately above the seller's signature line.

In addition ~~to this statement~~, each voluntary credit sale contract ~~shall include the following must provide~~:

- (1) ~~Name The name~~ of the grain buyer;
- (2) ~~Name The name~~ of the seller;
- (3) ~~Amount The amount~~ and type of grain;
- (4) ~~Grade The grade~~ of the grain;
- (5) ~~Method The method~~ of pricing;
- (6) Service charges or other fees;
- (7) Advances against the contract;
- (8) ~~Settlement~~ The settlement date; and

~~(8)(9)~~ A statement that title to the grain passes to buyer upon delivery; ~~and~~

~~(9)(10)~~ Signature and date of signature for ~~Except as otherwise provided~~, both the seller and buyer ~~immediately preceded by shall sign and date the contract in the space directly below the required statement required in this section. However, if the voluntary credit sale. A contract that~~ is signed by only one of the parties ~~to the contract, satisfies the requirements of this subsection are considered met paragraph~~ if, within a reasonable time, ~~a writing in the non-signing party provides written confirmation of the contract and, which is sufficient against the sender is received and the party receiving the writing in confirmation non-signing party, and the signing party has reason to know its the contents of the confirmation, unless written notice of objection to its the signing party objects to the contents is given of the confirmation, in writing, within two days after the writing in confirmation is received.~~

Source: 12 SDR 85, effective November 24, 1985; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 24 SDR 190, effective July 15, 1998; 35 SDR 48, effective September 9, 2008; 40 SDR 39, effective September 9, 2013.

General Authority: SDCL ~~49-45-6(4)(3)~~, 49-45-11.

Law Implemented: SDCL 49-45-11.

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Commented [A45]: Reminder to "[u]se the active voice whenever possible." ARSD Drafting Manual pg. 14.

Commented [A46R45]: Clarity - Understand, however, if this is kept vague because of the permutation of different individuals or entities who could be entering into this kind of contract.

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Commented [A47]: Style/Clarity - "must" per ARSD DM ...

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Commented [A48]: Reminder that "reasonable" should ...

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Commented [A49]: Clarity - Does one having "reason to ...

Commented [A50]: Should this be SDCL 49-45-6(3)?

Commented [A51R50]: Legality - It does seem like this ...

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20:10:13:40. Contents of applications for rate increases. ~~Applications A utility, in its application for a rate increase shall include increase, shall provide~~ the cost of service to be supplied and ~~shall include~~ the additional material required in §§ 20:10:13:41 to 20:10:13:107, inclusive. Additional materials may be supplied by the utility if the utility feels that it is necessary. All applications for rate increases ~~shall must~~ be submitted at least ~~30 thirty~~ days prior to the date that the rate increase is proposed to become effective.

~~If the statements described in §§ 20:10:13:51 to 20:10:13:102, inclusive, are prepared at the total company level, the application for a base rate increase must also provide the statements at the South Dakota level.~~

Source: 2 SDR 90, effective July 7, 1976; 5 SDR 1, effective July 25, 1978; 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-10, 49-34A-12, ~~49-34A-41~~.

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Commented [A52]: Style - Preference for singular subject. ARSD DM, pg. 15.

Commented [A53]: Style - See above comment in prior section on a similar revision.

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Commented [A54]: Legality - Just making sure that this range of rules accurately captures all of the required elements of the application in SDCL 49-34A-12.

Commented [A55]: Consider:

The applicant utility may supply additional materials as the utility considers necessary.

Commented [A56R55]: Clarity/Legality - Alternatively, this section otherwise lays out what is required to be in an application for a rate increase. Even with this sentence struck, does anything prevent the applicant from including additional materials? Could, then, this sentence be struck as redundant? Generally speaking, purely permissive language is not appropriate for rule (SDCL 1-26-1-(8)(b)), unless the permissive language takes the form of necessary authorization, or "procedure available to the public," in this case.

Commented [A57]: Consider using active voice (e.g., "the utility shall submit the application..."). ARSD Drafting Manual pg. 14.

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Commented [A58]: "Most numbers used in the body of rule text ... should be written out rather than indicated by numerals." ARSD Drafting Manual pg. 18.

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Commented [A59]: Clarity - Not all of the provisions in that string cite are described as "statements" in their own sections. Some are analyses or comparisons. Does this mean that only the provisions that are self-described as "statements" are captured here? Or are all of the provisions in this range of sections captured?

Commented [A60]: Perhaps "on a total company basis"?

Commented [A61]: Perhaps "the utility must provide..."?

Commented [A62]: Consider using "state" instead. ARSD Drafting Manual pg. 24.

Commented [A63]: Legality - This statute envisions a PUC order being issued to obtain the production of documents. There is no order being referenced here.

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20:10:16:01. Public information. ~~Each A~~ utility shall ~~comply with the following:~~

(1) ~~A utility shall post~~ Post prominently and conspicuously ~~on its~~ the utility's website and ~~at all utility office locations open to the general public any public office of the utility a~~ sign or notice ~~explaining:~~

~~(a) Explaining~~ where, when, and to whom a complaint may be directed ~~and a~~
~~notice of; and~~

~~(b) Of~~ the availability of the commission to act as a mediator ~~with, which lists~~ the commission's address, e-mail address, and telephone number;

(2) Each time ~~a~~ the utility is granted an increase in residential rates, ~~the utility shall~~ furnish to each residential customer ~~that is~~ affected by the change in rates a comparison of the prior rates and the new rates. ~~The comparison shall, which must include, a:~~

~~(a) A~~ minimum of six different KWH, CCF, MCF or Therm steps showing the cost of the prior rates ~~the;~~

~~(b) The~~ cost of the new rates ~~the;~~

~~(c) The~~ difference between the prior and new rates ~~and the; and~~

~~(d) The~~ percent increase.

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-26, 49-34A-27.

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Commented [A64]: Perhaps "physical address" or "mailing address"?

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Commented [A65]: "KWH" and "MCF" are defined in ARSD 20:10:13:01, but "CCF" and "Therm" are not. Consider defining abbreviations. ARSD Drafting Manual pg. 13.

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Commented [A66]: Legality - SDCL 49-34A-4 provides a list of subdivisions that contain General Authority. I do not see any that are relevant to this section that contain intelligible standards for promulgating rules in those subject areas listed in the subdivisions.

Commented [A67]: Should SDCL 49-34A-26 be included here? It seems to some criteria as to who may file a complaint, as well as the minimum number of consumers required to file a complaint.

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20:10:16:03. Emergency information. ~~Each utility, for every area which it serves, A~~
~~utility~~ shall provide ~~in the area telephone directories, in a prominent location on its the~~
~~utility's website,~~ a telephone number through which the utility ~~can~~ ~~may~~ be notified at any
time of any utility service problem or emergency.

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-2, 49-34A-2.1, 49-34A-27.~~

Commented [A68]: This language seems unnecessary if the contact information is to be provided online rather than in a local directory.

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Commented [A69]: Legality - This rule section seems to have little to do with unreasonable preferences, prejudices, or disadvantages.

Commented [A70]: Legality - See above.

Commented [A71]: Should SDCL 49-34A-2 or 49-34A-2.1 be included here? It seems these code sections are relevant to a customer's ability to easily report an emergency or service interruption.

Commented [A72R71]: Legality - Brilliant suggestion. I was hard pressed to find anything approximating intelligible standards in statute for this proposition, besides very generic references in SDCL 49-34A-27.

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20:10:17:13. Complaints. ~~Each~~ A utility shall make a full and prompt investigation of ~~all complaints any complaint~~ received. ~~For all written complaints or any other complaints which are unresolved after sixty days, the~~ The utility shall annually prepare a written ~~record report~~ of each complaint that is unresolved for more than sixty days, showing the name and address of the complainant, the date and character of the complaint, and the ~~disposition status of the complaint or actions taken by the utility to resolve the complaint.~~ ~~A monthly summary of all written complaints received showing the character of the complaints and the disposition thereof shall be attached to and submitted with the utility's annual report to the commission.~~ The utility shall file this the report with the commission, as an informational filing, by January 1 first of each year.

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-2, 49-34A-2.1, 49-34A-27.

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Commented [A73]: "Use the singular instead of the plural." ARSD Drafting Manual pg. 15.

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Commented [A74]: Is the report listing any complaint that was unresolved for more than sixty days during the reporting period, regardless of whether the complaint is resolved at the time the report is made, or is it only listing those complaints that remain unresolved as of the date of the report?

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Commented [A75]: Clarity - It doesn't seem like the phrase "informational filing" is used in article 20:10 or in SDCL chapter 49-34A. What is the significance of it? Does it need to be described or defined?

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20:10:19:09. Refund of deposits upon disconnection. After disconnection of service and receipt of ~~the a customer's~~ final payment, ~~the a~~ utility shall promptly and automatically refund the customer's deposit, plus accrued interest, or the balance, if any, in excess of the unpaid bills for service furnished by the utility. The utility shall make a reasonable effort to refund the deposit. ~~If no a~~ refund is not possible, the unclaimed deposit, plus accrued interest, ~~shall be credited to an appropriate account must be handled in accordance with the provisions of SDCL chapter 43-41B.~~

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-2, 49-34A-27.

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Commented [A76]: This is vague. What is considered a reasonable effort?

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Commented [A77]: Consider using active voice here (e.g., "if the utility is unable to refund the deposit..."). ARSD Drafting Manual pg. 14. Alternatively, consider replacing this sentence with something like "an unclaimed deposit is subject to the provisions of SDCL 43-41B-8."

Commented [A78]: Legality - There really isn't much of anything in statute about refunds of deposits upon disconnection, save in SDCL 49-34A-4(9). At best, this relates to the general requirement that public utilities furnish "reasonable service" in SDCL 49-34A-2 or "reasonable standards...practices" of all public utilities per SDCL 49-34A-27. It is arguably unreasonable for a utility to retain a deposit for service.

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20:10:20:08. Insufficient reasons for disconnection. A utility ~~shall~~ may not disconnect service to any customer solely ~~upon any of the following grounds due to the customer's failure to pay for:~~

~~(1) The customer's failure to pay for merchandise or special services purchased from the utility;~~

~~(2)(1) The customer's failure to pay for a (1) A~~ different class of utility service;

~~or (3)(2) The customer's failure to pay a (2) A~~ bill for which the customer is a

guarantor.

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-2, 49-34A-2.1, 49-34A-27.

Commented [A79]: Use "may not" instead of "shall not." ARSD Drafting Manual pg. 24.

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Commented [A80]: Should SDCL 49-34A-2 and 49-34A-2.1 be included here?

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20:10:20:11. Residential medical emergency. Notwithstanding the provisions of §§ 20:10:20:03 and 20:10:20:04, a utility shall postpone the disconnection of utility service to a residential customer for ~~30~~ thirty days from the date of a physician's certificate or a notice from a public health or social services official, which states that disconnection of the service will aggravate an existing medical emergency of the customer, ~~a member of the customer's family~~, or other permanent resident of the premises where the service is provided. ~~Such extensions are~~ An extension pursuant to this section is limited to a single ~~30-day~~ thirty-day period.

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; 13 SDR 40, effective October 14, 1986.

General Authority: SDCL 49-34A-4.

Law Implemented: SDCL ~~49-34A-3, 49-34A-4~~ 49-34A-2, 49-34A-27.

Commented [A81]: Reminder to write out numbers.
ARSD Drafting Manual pg. 18.

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CHAPTER 20:10:24

INTEREXCHANGE CARRIER AND CLASSIFICATION RULES

Section

- 20:10:24:01 Definitions.
- 20:10:24:02 Certificate of authority for interexchange service -- Application requirements.
- 20:10:24:03 Denial of application for certificate of authority for interexchange service.
- 20:10:24:04 Certificate of authority -- Information filed after certification, Repealed.
- 20:10:24:04.01 Sale, assignment, lease, or transfer of certificate of authority.
- 20:10:24:04.02 Suspension or revocation of certificate of authority.
- 20:10:24:04.03 Notice and hearing required for suspension or revocation of certificate of authority.
- 20:10:24:04.04 Procedure for suspension or revocation hearing.
- 20:10:24:04.05 ~~Performance bonds~~ Bond or other security.
- 20:10:24:05 Alternative operator services.
- 20:10:24:06 Classification -- Application requirements.
- 20:10:24:07 Classification -- Filing the application.
- 20:10:24:08 Classification -- Incomplete application.
- 20:10:24:09 Classification -- Emerging competitive services -- Trial offerings.
- 20:10:24:10 Classification -- Variance from application rules.
- 20:10:24:11 Reclassification -- Contents of complaint.
- 20:10:24:12 Reclassification -- Filing of complaint.
- 20:10:24:13 Reclassification -- Incomplete complaint.
- 20:10:24:14 Reclassification -- Variance from rules for filing complaints.
- 20:10:24:15 Utility investigation fund -- Criteria for determining deposit amount.
- 20:10:24:16 Utility investigation fund -- Notice of assessment -- Deadline for payment.
- 20:10:24:17 Utility investigation fund -- Allocation of share to other parties.
- 20:10:24:18 Utility investigation fund -- Objections to deposit amount.

20:10:24:19 Utility investigation fund -- Action taken on unpaid deposit.

20:10:24:04. Certificate of authority -- Information filed after certification. ~~After a telecommunications company has received a certificate of authority from the commission, the company shall submit to the commission on June 1 each year thereafter a report identifying the exchanges, routes, or other geographic areas of this state where it is providing or expects to provide services. The report shall include the number and type of customers being served. Repealed.~~

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.~~

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Commented [A82]: Reminder to retain the source note in a repealed section. ARSD Drafting Manual pg. 9.

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20:10:24:04.05. Performance bonds-Bond or other security. If in the public interest, the commission may require an applicant, as a condition precedent to granting a certificate of authority, to file with the commission a bond or other security for an amount and a duration ~~as the commission may require~~. The bond or other security ~~shall~~:

~~(1) Must~~ be filed with the commission ~~and shall be~~;

~~(2) Is~~ for the benefit of ~~a customer of the applicant~~. The bond or other security shall ~~apply the applicant's customers; and~~

~~(3) Applies~~ only to customers receiving ~~wireline~~ interexchange service ~~that is being~~ provided in ~~South Dakota this state~~ by the applicant.

The commission may require an increase in the amount of the bond or other security, from time to time, as the commission deems necessary for the protection of the public. ~~The bond may be a surety bond or other security as the commission may require.~~ If a surety bond is required, the surety on the bond must be a corporate surety company holding a certificate with the ~~Department Division~~ of Insurance ~~of the State of South Dakota~~ ~~authorizing it to execute the same, which authorizes the company to execute surety bonds.~~

Source: 25 SDR 89, effective December 27, 1998; 34 SDR 67, effective September 11, 2007.

General Authority: SDCL 49-31-3.

Law Implemented: SDCL 49-31-3, ~~49-31-117~~.

Commented [A83]: This language is redundant and seems overly broad.

Commented [A84R83]: Clarity - Redundancy given the "the commission may require an applicant" language earlier in the sentence. Lacking any standards for the commission to exercise its discretion here, it is overly broad.

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Commented [A85]: Clarity - It seems like the second and third subdivisions should be blended: "Is for the benefit of the applicant's customers receiving interexchange service in this state." Once that is done, add "and" at the end of the new subdivision (1).

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Commented [A86]: Clarity - Is this accurately for the public as a whole, or only for the "customers receiving interexchange service in this state" per the subdivisions?

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Commented [A87]: This sentence seems unnecessary as the first paragraph already states that the commission may require a bond, which presumably includes a surety bond, or other security.

Commented [A88]: Division of Insurance?

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Commented [A89]: Should SDCL 49-31-117 be included here?

CHAPTER 20:10:30
ASSIGNMENT OF N11 DIALING CODES

(Repealed)

Section

- 20:10:30:01 Available codes, Repealed.
- 20:10:30:01.01 Criteria for assignment, Repealed.
- 20:10:30:02 Assignment, Repealed.
- 20:10:30:03 Application -- Contents, Repealed.
- 20:10:30:04 Financial information, Repealed.
- 20:10:30:05 Burden of proof -- Public interest -- Technical, financial, and managerial capabilities, Repealed.
- 20:10:30:06 Interim approval -- Terms and conditions, Repealed.
- 20:10:30:07 Nontransferability, Repealed.
- 20:10:30:08 Termination for failure to provide service within 90 days, Repealed.
- 20:10:30:09 Termination if service no longer in public interest, Repealed.
- 20:10:30:10 Termination for higher public interest, Repealed.

20:10:30:01. Available codes. ~~The commission may, upon receipt of an application or upon its own motion, assign an available N11 dialing code within South Dakota local exchanges to a qualified person. Codes 611 and 811 may be assigned if a local exchange carrier (LEC) does not at the time of the application or motion use those codes or if the commission determines, pursuant to § 20:10:30:10, that the purpose proposed in the application or motion is a higher public interest than the purpose for which the LEC is using the 611 or 811 dialing code.~~ Repealed.

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Source: 21 SDR 4, effective July 17, 1994; 21 SDR 90, effective November 14, 1994.

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~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

~~**Cross Reference:** Persons, organizations and entities subject to general jurisdiction provisions, SDCL 15-7-1.~~

20:10:30:01.01. Criteria for assignment.

~~An application for the assignment of an N11 dialing code must demonstrate that the service to be provided or accessed through the use of the dialing code provides direct and substantial benefits to the public. In demonstrating the benefits the applicant must address in its application, and the commission may consider the following, as applicable:~~

- ~~—— (1) The emergency nature of the services and their benefit to the health, safety, and welfare of persons;~~
- ~~—— (2) Access to a broad range of national, state, and local governmental and public agencies;~~
- ~~—— (3) Access to communications services by persons disadvantaged by a physical impairment;~~
- ~~—— (4) Facilitation of customer connection to the local telecommunications network;~~
- ~~—— (5) Whether the assignment of a particular dialing code maximizes public benefits and minimizes public confusion;~~
- ~~—— (6) Whether the assignment of a particular code is compatible with the national, state, and local concerns for the preservation of universal service and the efficient, effective use of local telecommunications networks;~~
- ~~—— (7) Whether the assignment of a particular dialing code facilitates the national or international assignment of the same code for similar services; and~~
- ~~—— (8) Any other criteria the commission considers relevant to a public interest determination.~~

~~Source: 21 SDR 90, effective November 14, 1994~~

~~General Authority: SDCL 49-31-5.~~

~~Law Implemented: SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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Commented [A90]: Reminder to retain the source note. ARSD Drafting Manual pg. 9.

Commented [A91R90]: Form - I don't know what was done with the formatting here, but for the first time in my time here, I cannot remove an overstrike.

Commented [A92]: "Repealed" should be added before the last period of the body of the rule text rather than in the source note. See ARSD Drafting Manual pg. 32 for an example.

20:10:30:02. Assignment. ~~The commission shall assign an N11 dialing code to an application which will provide the most direct and substantial benefits to the public if the application is complete and meets the criteria established by this chapter for the assignment of such codes. If two applications for a particular dialing code propose to provide services which the commission finds are equally beneficial to the public, the commission shall assign the N11 dialing code to the application filed earliest Repealed.~~

Source: 21 SDR 4, effective July 17, 1994; 21 SDR 90, effective November 14, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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20:10:30:03. Application -- Contents. ~~An application filed under this chapter must contain the information and be in the form required by §20:10:24:02, except in lieu of subdivision 20:10:24:02(5) the application must include a specific description of the purpose for which the N11 code will be used.~~ Repealed.

Source: 21 SDR 4, effective July 17, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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20:10:30:04. Financial information. ~~In addition to the financial information required by subdivision 20:10:24:02(8), the application must include a schedule showing the investment to be made in the proposed service, an estimate of expenses, and the expected revenues~~ Repealed.

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Source: 21 SDR 4, effective July 17, 1994.

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~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

20:10:30:05. Burden of proof -- Public interest -- Technical, financial, and managerial capabilities. ~~The applicant has the burden of proving in its application that the services the applicant will provide through the use of the N11 dialing code are in the public interest and that the applicant has sufficient technical, financial, and managerial capabilities to provide the services~~ Repealed.

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Source: 21 SDR 4, effective July 17, 1994.

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~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

~~**Cross-Reference:** General supervision of telecommunications companies offering common carrier services by commission where not preempted — Filing application with commission — Demonstration of capabilities — Rules — Offering services without certificate of authority as misdemeanor, SDCL 49-31-3.~~

20:10:30:06. Interim approval -- Terms and conditions.~~The commission may assign an interim N11 dialing code to determine the feasibility of a permanent assignment of the N11 dialing code. An interim assignment is subject to the terms and conditions established by the commission after notice and opportunity for hearing.~~ Repealed.

Source: 21 SDR 4, effective July 17, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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20:10:30:07. Nontransferability. ~~The commission's interim approval or assignment of an N11 dialing code may not be transferred by the applicant.~~ Repealed.

Source: 21 SDR 4, effective July 17, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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20:10:30:08. Termination for failure to provide service within 90 days. ~~If the applicant fails to provide the service proposed in its application and to notify the commission in writing that it has begun providing the service within 90 days from the date of the commission's order granting the application, the assignment is automatically terminated and the N11 dialing code is available for reassignment. An applicant may request and the commission may, upon a showing of good cause, grant an extension of the 90-day period.~~ Repealed.

Source: 21 SDR 4, effective July 17, 1994; 21 SDR 90, effective November 14, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

~~**Cross Reference:** Scope and application, § 20:10:05:01.~~

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20:10:30:09. Termination if service no longer in public interest. ~~If the commission, after notice and opportunity for hearing, determines that the service provided by the applicant pursuant to the assignment of the N11 dialing code is no longer in the public interest, the assignment is terminated as of the effective date of the commission's order and the N11 dialing code is available for reassignment Repealed.~~

Source: 21 SDR 4, effective July 17, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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20:10:30:10. Termination for higher public interest. ~~If it becomes necessary to use an assigned N11 dialing code for an area code pursuant to a determination by the North American Numbering Plan (NANP) administrator, if the Federal Communications Commission (FCC) determines the assigned N11 dialing code is required for a national service, or if the commission determines, after notice and opportunity for hearing, that an assigned N11 dialing code is required for a higher public interest, the assignment shall terminate on the date specified in the notice from the NANP administrator or the FCC or in the commission's order.~~ Repealed.

Source: 21 SDR 4, effective July 17, 1994.

~~**General Authority:** SDCL 49-31-5.~~

~~**Law Implemented:** SDCL 49-31-3, 49-31-5, 49-31-7, 49-31-7.1.~~

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CHAPTER 20:10:31

ASSESSMENT OF FEES FOR INTRASTATE GAS PIPELINE OPERATORS

Section

- 20:10:31:01 Definitions.
- 20:10:31:02 Scope and application.
- 20:10:31:03 Reduction of support and direct costs.
- 20:10:31:04 Assessment of direct costs.
- 20:10:31:05 Assessment of support costs.
- 20:10:31:06 Assessment of initial inspection fee, Repealed.
- 20:10:31:07 Objection to assessment.

20:10:31:06. Assessment of initial inspection fee.~~An initial inspection fee of~~

~~\$100,000 is assessed to intrastate gas pipeline operators. Intrastate distribution pipeline operators with 50 meters or less are assessed a flat fee of \$25. The remaining initial inspection fee is prorated among all intrastate gas pipeline operators using the same method used to assess support costs in § 20:10:31:05 Repealed.~~

Source: 20 SDR 222, effective July 5, 1994.

~~**General Authority:** SDCL 49-34B-20.~~

~~**Law Implemented:** SDCL 49-34B-11.~~

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CHAPTER 20:10:32

LOCAL EXCHANGE SERVICE COMPETITION

Section

- 20:10:32:01 Definitions.
- 20:10:32:02 Certificate of authority required to provide local exchange service.
- 20:10:32:03 Certificate of authority for local exchange service -- Application requirements.
- 20:10:32:04 Notice to other local exchange carriers in proposed service area -- Intervener status.
- 20:10:32:05 Opportunity for hearing -- Burden of proof.
- 20:10:32:06 Rejection of incomplete application -- Decision criteria for granting a certificate of authority.
- 20:10:32:06.01 Performance bonds.
- 20:10:32:07 Certification subject to commission imposed terms and conditions.
- 20:10:32:08 Sale, assignment, lease, or transfer of certificate of authority.
- 20:10:32:09 Suspension or revocation of certificate of authority.
- 20:10:32:10 Service obligations of all providers -- Request for waiver.
- 20:10:32:11 Local calling scope for alternative providers.
- 20:10:32:12 Annual reporting requirements, Repealed.
- 20:10:32:13 Discontinuance of service.
- 20:10:32:14 Area under threat of discontinuance of service.
- 20:10:32:15 Rural service area -- Additional service obligations.
- 20:10:32:16 Good faith offering requirement.
- 20:10:32:17 Report of progress toward meeting service obligations.
- 20:10:32:18 Waiver of eligible telecommunications carrier service requirements.
- 20:10:32:19 Failure to meet service obligations -- Grounds for revocation of certificate.
- 20:10:32:20 Request for negotiations.
- 20:10:32:21 Submission of negotiated agreement for approval.

20:10:32:22 Submission of written comments on negotiated agreement -- Submission of response.

20:10:32:23 Commission decision on negotiated agreement.

20:10:32:24 Request for mediation.

20:10:32:25 Response to request for mediation.

20:10:32:26 Mediation conducted by commission staff.

20:10:32:27 Statement of issues.

20:10:32:28 Confidentiality of mediation -- Settlement proposals.

20:10:32:29 Petition for arbitration.

20:10:32:30 Response to petition for arbitration.

20:10:32:31 Arbitration conducted as a contested case -- Prehearing conference.

20:10:32:31.01 Participation by non-parties.

20:10:32:32 Commission decision on petition for arbitration.

20:10:32:33 Commission approval of arbitrated agreement.

20:10:32:34 Submission of written comments on arbitration agreement -- Submission of response.

20:10:32:35 Commission decision on arbitrated agreement.

20:10:32:36 Commission decision on agreement containing both arbitrated and negotiated provisions -- Submission of separate agreements.

20:10:32:37 Rural exemption from negotiation and interconnection requirements.

20:10:32:38 Notice to commission of request.

20:10:32:39 Petition for suspension or modification of interconnection requirements.

20:10:32:40 Copy of petition to affected local service providers.

20:10:32:41 Timeline for reviewing petition.

20:10:32:42 Designation of eligible telecommunications carriers.

20:10:32:43 Eligible telecommunications carrier petitions.

20:10:32:43.01 Demonstration of commitment to provide service.

20:10:32:43.02 Submission of two-year plan.

20:10:32:43.03 Demonstration of ability to remain functional in emergency situations.

20:10:32:43.04 Demonstration of ability to satisfy consumer protection and service quality standards.

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

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

20:10:32:43.07 Public interest standard.

20:10:32:44 Existing eligible telecommunications carrier designations not affected.

20:10:32:45 Determining the applicable service area.

20:10:32:46 Copy of petition to other eligible telecommunications carriers.

20:10:32:47 Designation of eligible telecommunications carrier for unserved areas.

20:10:32:48 Relinquishment of eligible telecommunications carrier status.

20:10:32:49 Revocation of eligible telecommunications carrier status.

20:10:32:50 Monitoring of competitive local exchange services.

20:10:32:51 Use of universal service support.

20:10:32:52 Annual certification requirements for designated eligible telecommunications carriers.

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

20:10:32:54 Certification requirements.

20:10:32:55 Lifeline and link-up advertising requirements -- Annual report on outreach efforts.

20:10:32:56 Petition for waiver -- Granting of waiver.

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

requirements. A telecommunications company that is required by SDCL chapter 49-31 to apply to the commission 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 company'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~~ company is to provide local exchange services, if different than in subdivision (1) of this section;
- (4) A copy of ~~its~~ the company's certificate of authority to transact business in this state from the Office of the Secretary of State;
- (5) The location of the ~~applicant's company's~~ principal office, if any, in this state and the name and address of ~~its~~ the company's current registered agent, if applicable;
- (6) A list containing the following information about the types of services the ~~applicant company~~ seeks to offer and how the services ~~will are to~~ be provided:
 - (a) The classes of customers the ~~applicant company~~ intends to serve;
 - (b) The date the ~~applicant company~~ is to provide service and the extent to which service is to be provided through ~~the use of~~ the ~~applicant's company's~~ own facilities, the purchase of unbundled network elements, or resale;
 - (c) A description of all facilities that the ~~applicant shall~~ company is to utilize to furnish the proposed local exchange services, including any facilities of underlying carriers; and
 - (d) The types of services the ~~applicant company~~ seeks authority to provide, with reference to the general nature of each service;
- (7) A description of the ~~applicant's company'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 company~~;

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Commented [A93]: How is good cause determined?

Commented [A94]: Clarity - May the Commission only permit the omission of one of the subdivisions, or can it permit omission of more?

Commented [A95]: Use straight apostrophes instead of smart apostrophes. ARSD Drafting Manual pg. 17.

Commented [A96R95]: Clarity - Additionally, the subject of this section is a telecommunications company.

Commented [A97]: Reminder that abbreviations are discouraged. ARSD Drafting Manual pg. 13. Perhaps "website address" could replace "web page URL" here?

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Commented [A98]: Form - There are multiple hard returns in the middle of sentences here, presumably to ensure the content is double-spaced. Use the Word formatting to ensure double-spacing throughout. Choose the "show all" formatting option in Word to see where hard returns have been made.

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

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(10) ~~For The applicant's company's balance sheets, cash flow statements, income statements, and other financial statements 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 which must be audited financial statements, if available or requested by the commission;~~

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

Commented [A100]: Clarity - Wouldn't the Commission only need audited financial statements if the Commission requested them?

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

Commented [A101]: Form The right margins go from regular to narrow with a few of these subdivisions and subsections.

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

Commented [A102]: Consider replacing "its" with "the applicant's" or "the company's" or even just "the" here.

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

Commented [A103]: "The applicant's plan to ..."?

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(15) ~~How the applicant will notify~~ The applicant's plan for notifying a customer of any materially adverse change to any rate, term, or condition of any telecommunications service provided to the customer by the ~~applicant company~~;

Commented [A105]: Consider replacing "its" with "the applicant's," "the company's," or "the" here.

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

Commented [A106]: "The applicant's plan for notifying ..."?

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(a) ~~Has As to whether the applicant company has~~ ever been denied registration or certification in any state, and the reasons for any denial; ~~and~~

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(b) ~~Is As to whether the applicant company is~~ in good standing with the appropriate regulatory agency in any state where it is registered or certified; ~~and~~

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(c) Providing a detailed explanation of why the ~~applicant company~~ is not in good standing in ~~a given each~~ state, ~~if where~~ applicable;

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(17) ~~The applicant's~~ company's federal tax identification number and South Dakota sales tax number;

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~~(17)(18)~~ A description of ~~how the applicant intends~~ the company's plan to market its local exchange services, a description of ~~its the~~ target market, a statement as to whether the ~~applicant company~~ engages in multilevel marketing, and copies of any company brochure that is to be used to assist in sale of the services;

Commented [A109]: Perhaps "the applicant's plan"?

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Commented [A110]: Clarity - How is this different than subdivision (13)'s requirement to provide the policies on customer solicitation?

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~~(18)(19)~~ The technical competence of the ~~applicant company~~ to provide its proposed local exchange services as shown by:

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

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(b) Any policy, personnel decision, or arrangement made by the ~~applicant~~ company, which demonstrates the ~~applicant's company'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)(20) How the applicant is~~ The company's plan to provide customers with access to 911 or enhanced 911, operator services, interexchange services, directory assistance, telecommunications relay services, and any other emergency service;

~~(20)(21)~~ The following matters associated with interconnection to provide proposed local exchange services:

(a) The identity of all local exchange carriers with which the ~~applicant company~~ 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 company~~ to any local exchange carrier;

~~(21)(22)~~ If the ~~applicant company~~ is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the ~~applicant company~~ expects to meet the service obligations imposed pursuant to § 20:10:32:15 and the ~~applicant's company's~~ plan for meeting the service obligations;

~~(22)(23)~~ A written request for waiver of any rule believed to be inapplicable; ~~and~~

~~(24)~~ The number and nature of complaints with any state or federal regulatory commission regarding unauthorized switching of a customer's customer's telecommunications provider or the act of charging customers for services that have not been ordered

~~; and~~

~~(23)(25)~~ Other information requested by the commission ~~needed~~ to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the proposed local exchange services ~~it intends to offer consistent in compliance~~ 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~~ The 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;

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Commented [A114]: "The applicant's plan"?

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Commented [A116]: Remove paragraph break.

Commented [A117]: Remove paragraph break.

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Commented [A119]: Do not use smart apostrophes.

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Commented [A120]: Remove paragraph break at the end of this line and double-space this subdivision.

Commented [A121]: Perhaps "necessary" or " , which is necessary"?

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Commented [A122]: This language seems redundant as audited financial statements are addressed in subdivision (10).

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Commented [A123]: Does the commission only want to be notified about changes to information in those four enumerated subdivisions? Must the applicant notify the commission of any other changes to the information contained in the application?

Commented [A124R123]: Clarity - Agreed. As it currently reads, the sentence only provides that the information required to be produced in those subdivisions, if changed, must be noticed to the commission immediately as the change occurs. There is silence on the obligations to report change info on all of the other required info.

34 SDR 67, effective September 11, 2007; 52 SDR 32, effective September 29, 2025.

General Authority: SDCL 49-31-76.

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

Commented [A125]: Should SDCL 49-31-3, 49-31-5, 49-31-7.1, 49-31-77, 49-31-81, 49-31-85, or 49-31-89 be included here?

Commented [A126]: Should SDCL 49-31-70, 49-31-71, 49-31-81, 49-31-85, or 49-31-89 be included here?

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 Repealed.~~

Source: 25 SDR 89, effective December 27, 1998; 52 SDR 32, effective September 29, 2025.

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

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

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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. A telecommunications provider shall electronically file a report with the Commission commission pertaining to any outage, as defined in 47 C.F.R. § 4.5 (January 16, 2024), if it which meets the outage reporting threshold criteria as defined described in 47 C.F.R. §§ 4.7 & 4.9 (January 16, 2024). The content of the report to the Commission shall commission must contain all information set forth in 47 C.F.R. § 4.11 (January 16, 2024).~~

Source: 25 SDR 89, effective December 27, 1998; 52 SDR 32, effective September 29, 2025.

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

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

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Commented [A127]: Perhaps “described” makes more sense here?

Commented [A128R127]: Clarity/Legality - The “definitions” associated with these thresholds are provided in 47 C.F.R. § 4.7. Presumably those are also relevant to interpreting § 4.9. Therefore, recommend the edits to the left.

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Commented [A129]: Legality - This statute provides express authority to promulgate rule in a given subject area (General Authority), but it does not provide intelligible standards for promulgating rule in that subject area (Law Implemented).

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CHAPTER 20:10:33

SERVICE STANDARDS FOR TELECOMMUNICATIONS COMPANIES

Section

- 20:10:33:01 Definitions.
- 20:10:33:02 Level of service provided by local exchange companies.
- 20:10:33:03 Level of service applicable to all subscribers within an exchange.
- 20:10:33:04 Minimum requirements for new or replaced switching systems.
- 20:10:33:05 Minimum requirements for channel capacity.
- 20:10:33:06 Minimum levels of trunking facilities provided by interexchange companies.
- 20:10:33:07 Requirements for good engineering practices.
- 20:10:33:08 Requirement for sufficient equipment and adequate personnel.
- 20:10:33:09 Required documentation to show sufficient equipment and adequate personnel.
- 20:10:33:10 Assignment of facilities.
- 20:10:33:11 Charges for construction of facilities.
- 20:10:33:12 Records of tests and inspections.
- 20:10:33:13 Provisioning of adequate and reliable facilities.
- 20:10:33:14 Program required for testing, inspecting, and maintenance.
- 20:10:33:15 Repair of plant and equipment.
- 20:10:33:16 Leakage, loop resistance, and transmission tests.
- 20:10:33:17 Emergency planning.
- 20:10:33:18 Plan required to deal with loss of switch.
- 20:10:33:19 Auxiliary and battery power requirements.
- 20:10:33:20 Central office alarms.
- 20:10:33:21 Prevention of access line service interruptions -- Reestablishment of service -- Priority given to customers with medical condition and certain entities.
- 20:10:33:22 Maintenance service interruptions -- Notification.

20:10:33:23 Records of access line service interruptions.

20:10:33:24 Reporting of trouble reports.

20:10:33:25 Customer trouble reports.

20:10:33:26 Record of trouble reports.

20:10:33:27 Reporting requirements when 911 service is disrupted or impaired.

20:10:33:28 Reporting of service disruption or impairment, Repealed.

20:10:33:29 Standards applicable under normal operating conditions.

20:10:33:30 Petition for waiver -- Granting of waiver.

20:10:33:31 Failure to pay for services other than local exchange services not grounds to terminate local exchange service.

20:10:33:32 Exemption from providing local exchange service when toll services terminated.

20:10:33:28. Reporting of service disruption or impairment.~~Each local exchange~~

~~company shall, within one hour of discovery, report to the local area broadcast media serving the affected local serving areas and to the commission, pertinent information concerning any specific occurrence or development which disrupts or impairs the telecommunications service of the smaller of 25 percent or 750 or more customers in a local exchange area for a time period in excess of one hour. Notification is also required for complete switching system failures, isolation of remote switching modules from their host, or major service disruptions due to interoffice failures. Repealed.~~

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

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

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

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CHAPTER 20:10:37
PIPELINE SAFETY RULES

Section

- 20:10:37:01 Definitions.
- 20:10:37:02 Scope and application.
- 20:10:37:03 Applicability of procedural rules.
- 20:10:37:04 Inspections.
- 20:10:37:05 Pipeline operator's obligations.
- 20:10:37:06 Inspector's reporting requirements.
- 20:10:37:07 Pipeline operator's receipt of the inspector report.
- 20:10:37:08 Probable non-compliance inspection results.
- 20:10:37:09 Pipeline operator's inspection response.
- 20:10:37:10 Pipeline operator's incident reporting requirements.
- 20:10:37:11 Inspector's incident investigation.
- 20:10:37:12 Post-incident investigation meeting.
- 20:10:37:13 Incident report.
- 20:10:37:14 Pipeline operator's obligations upon completion of inspector's incident report.
- 20:10:37:15 Pipeline operator's failure to reply.
- 20:10:37:16 Request for hearing.
- 20:10:37:17 Change of ownership.
- 20:10:37:18 Notice requirements for transmission line construction.
- [20:10:37:18.01 Notice requirements for liquid natural gas facility construction.](#)
- 20:10:37:19 Annual report.

give telephonic notice ~~of emergency construction, relocation, or replacement~~ to the commission's pipeline safety program ~~of any emergency pipeline construction, relocation, or replacement~~;

(3) Submit significant construction modifications of the pipeline to the pipeline safety program; and

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Commented [A144]: Again, should the notice be given to the commission or program manager rather than just to the program?

Commented [A145]: What kinds of construction modifications are "significant"? Is this defined anywhere?

Commented [A146R145]: Clarity - - Is this an ongoing requirement throughout construction, despite the up front nature of the notice in subdivision (1)? Should that be clarified? Same question with subdivision (2)...is this envisioned as an ongoing obligation up until construction, relocation, or replacement is complete? Is that clear? Or does subdivision (2) pertain to an emergency circumstance that generates the need for construction, relocation, or replacement—not an emergency that arises during the construction, relocation, or replacement?

(4) Submit ~~the information below~~ to the commission's pipeline safety program ~~no later than, at least~~ sixty days prior to the commencement of the pipeline's operation, the operator's:

(a) Operation and maintenance manual;

(b) Emergency procedures;

(c) Anti-drug and alcohol plan;

(d) Public ~~Awareness~~ awareness plan;

(e) Damage prevention program;

(f) ~~Abnormal operations~~;

(g) ~~Operator's qualification~~ Qualification plan; and

(h) Integrity Management Plan.

Source: 36 SDR 57, effective October 19, 2009; 47 SDR 125, effective May 30, 2021; 50 SDR 125, effective May 6, 2024.

General Authority: SDCL 49-34B-4, 49-34B-6, 49-34B-19.

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

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Commented [A147]: Style - This does not appear to be a proper noun.

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Commented [A148]: Should this be "abnormal operation procedures" per 49 C.F.R. § 192.605(c)?

Commented [A149]: Should this be "qualification program" per 49 C.F.R. § 192.805?

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Commented [A150]: Style - The CFR's use of this term outside of the definition section does not capitalize it, suggesting that it is not a proper noun and should be lower-case.

20:10:37:18.01. Notice requirements for liquid natural gas facility construction. ~~The An~~
~~operator of a liquid natural gas facility which falls under the definition of a "gas pipeline" that~~
~~qualifies as a gas pipeline, as defined in SDCL 49-34B-1, shall:~~

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

~~(a) Operator's~~ The operator's name, mailing address, and telephone number;

~~(b) Estimated~~ The dates on which construction is scheduled to begin and end;

~~(c) The type and purpose of the facility;~~

~~(d) Map~~ A map showing the location of the facility;

~~(e) Proposed facility specifications, including~~ The proposed size, weight, grade, wall
thickness, ~~and~~ coating, and any other specification pertaining to the facility;

~~(f) Proposed~~ The proposed design and maximum allowable operating pressure of the
facility;

~~(g) Pressure~~ The pressure test procedures and method of pressure test prior to operations;

~~(h) Proposed~~ The proposed type of cathodic protection;

~~(i) Proposed~~ The proposed location and type of safety equipment;

~~(j) Written~~ The operator's written construction procedures;

~~(k) Name~~ The name of construction company, if known at the time of filing the ~~Notice~~
notice;

~~(l)~~ Storage tank specifications;

~~(n)~~ Thermal radiation protection specifications;

~~(o)~~ Flammable vapor-gas dispersion protection parameters;

~~(p)~~ Structural specifications; and

~~(q) Control~~ The control center location;

~~(2) In the event of an emergency, as defined in the operator's operations manual, give~~
~~telephonic notice of emergency construction, relocation, or replacement to the~~
~~commission's pipeline safety program of any emergency construction, relocation, or~~
~~replacement;~~

~~(3) Submit significant~~ construction modifications to the pipeline safety program; and

~~(4) Submit the information below to the commission's pipeline safety program no later~~

Commented [A151]: Clarity - SDCL 49-34B-1 defines "liquefied natural gas" - should that term be used here instead? For that matter, why use one term that is not defined--"liquid natural gas facility"--and make it a subset of a term that is defined--"gas pipeline." Is there anything that helps provide context for what a liquid natural gas facility is? A further complication is that "gas pipeline facility" is defined in 49-34B-1 as distinct from "gas pipeline," yet the latter is being used here to apply to a "facility" of a different kind. It is not clear.

Whatever the operative term is for the "thing"--either facility or pipeline--recommend that the term is inserted in the subsections and subdivisions akin to how "pipeline" was inserted in each of the subsections and subdivisions in the section immediately above this one.

Commented [A152]: "Smart quotes are not to be used, only straight quotes." ARSD Drafting Manual pg. 17. Nonetheless, quotation marks are not really necessary here.

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Commented [A153]: Note the comment on this phrase in the preceding section. It involves a few provisions in this section.

Commented [A154]: Clarity - This language is a rephrasing of what currently exists. Both phrasings are pretty open-ended. Is an operator going to know what "other specification" the Commission is looking for here without specifying it (i.e., making this list exhaustive)?

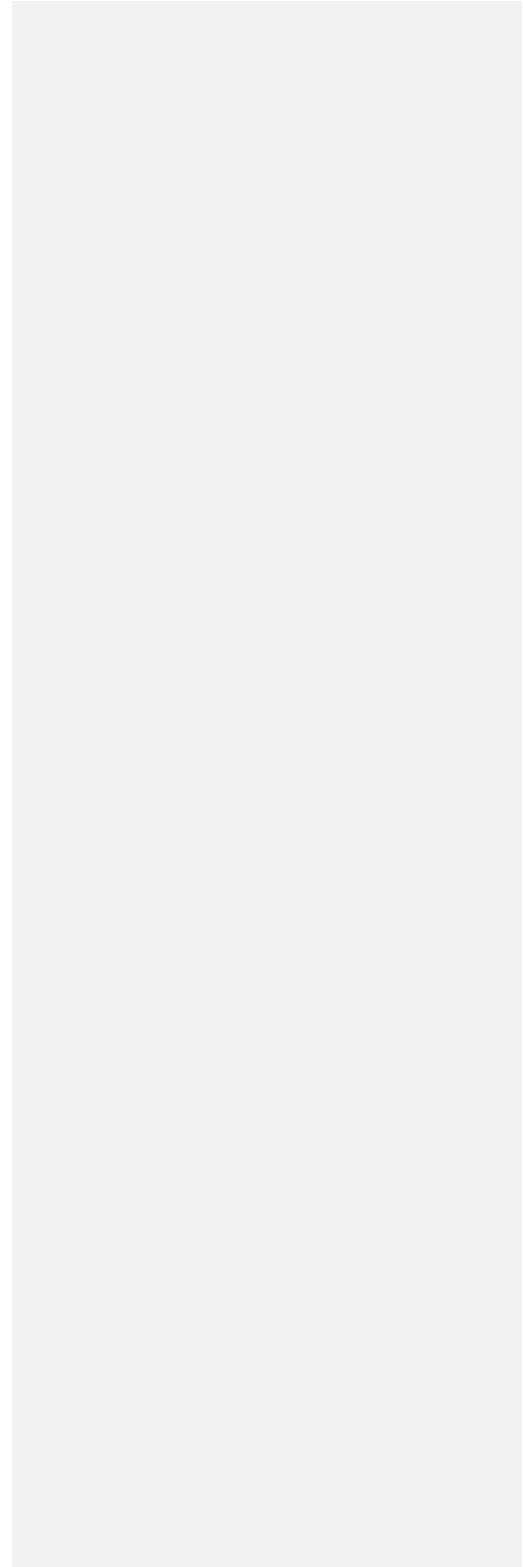
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Commented [A155]: Consider defining what constitutes a significant construction modification.

Commented [A156]: Should this be "commission" or "pipeline safety program manager"?

then, at least sixty days prior to the commencement of operation, the operator's:

(a) Operation and maintenance manual;



(b) Emergency procedures;

(c) Anti-drug and alcohol plan; and

(d) ~~Operator's qualification~~ Qualification plan; and.

Source:

General Authority: SDCL 49-34B-4, 49-34B-6, 49-34B-19.

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

Commented [A157]: "Qualification program"?

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