

## FORM 14

### SMALL BUSINESS IMPACT STATEMENT FORM

See SDCL 1-26-2.1

**(NOTE: This form must be signed by either the head of the agency or the presiding officer of the board or commission empowered to adopt the rules. Check your statutes to see who is authorized to promulgate rules. A small business is defined as any business with 25 or fewer full-time employees. When a set of rules is proposed, a general summary shall be provided; each proposed rule amendment shall also be explained thoroughly. In the case of a large set of proposed rules which all have a single purpose and impact, one explanation is sufficient. The law makes it clear that agencies or commissions shall use readily available information and existing resources to prepare the impact statement.)**

At its March 29, 2011 meeting, the Legislative Rules Review Committee voted to revert the rules proposed by the Public Utilities Commission back for further public comment and further consideration of an amended Form 14 - Small Business Impact Statement Form regarding the finalization of 20:10:27:02.01. In accordance with this finding, this additional Small Business Impact Statement regards the finalization of 20:10:27:02.01.

1. Our agency has determined that the rule/s we are proposing have the following type of impact on small businesses:
  - Direct impact (*please complete remainder of form*)
  - Indirect impact (*please provide a brief explanation, then sign, date, and submit form. Questions 2 through 8 do not need to be answered*)
  - No impact (*please provide a brief explanation, sign, date, and submit form - Questions 2 through 8 do not need to be answered*)
  
2. A general narrative and overview of the effect of the rule(s) on small business - written in plain, easy to read language:

The proposed rules make revisions to the current switched access rules which set switched access rates. Switched access rates are the rates charged by a local exchange carrier and paid by a long-distance or toll carrier. The long-distance carrier pays the switched access rate to terminate or originate toll calls. A competitive local exchange carrier (CLEC) is a carrier that competes with an incumbent local exchange carrier (ILEC) for local exchange customers. Under the rules as originally proposed, a CLEC that served larger communities could receive the Qwest switched access rate of 6.042 cents per minute. For CLECs that have chosen not to serve the larger communities and instead serve smaller communities, those CLECs could have received a 9 cent switched access rate. After consideration of the comments, the Commission decided to revise 20:10:27:02.01 by requiring that all CLECs would be able to charge switched access rates that do not exceed the rate of the Regional Bell Operating Company operating in the state. The Regional Bell Operating Company in South Dakota is

Qwest. The switched access rate charged by Qwest is 6.042 cents per minute. Thus, the effect of the revisions to 20:10:27:02.01 is the elimination of the proposed 9 cent rate for CLECs that have chosen to primarily serve communities with populations of less than 10,000 inhabitants. Thus, a CLEC that serves primarily smaller communities will receive the Qwest rate which is currently 6.042 cents per minute instead of the proposed 9 cent rate. For a CLEC that chooses to have its rate set pursuant to 20:10:27:02.01, this revision from the rule as originally proposed will result in a reduction in switched access revenues for those CLECs that serve primarily communities with populations of less than 10,000 inhabitants. The amount of any reduction is dependent on each CLEC's minutes of use for switched access services.

When revised rule 20:10:27:02.01 is compared to the current switched access rate charged by a CLEC, any reduction in switched access revenues will be the difference between the CLEC's current rate and the 6.042 switched access rate for those CLECs that have a current rate that exceeds the 6.042 rate and choose not to conduct a cost study. Many CLECs already currently charge switched access rates that do not exceed the 6.042 cents per minute. Some CLECs currently charge a switched access rate above the 6.042 cents per minute. For example, one of the highest switched access rates currently charged by CLECs is 11.5 cents per minute. For each CLEC that currently charges a rate above 6.042 cents per minute and chooses not to conduct a cost study, the actual amount of reduction in switched access revenue will be dependent on the CLEC's minutes of use for switched access services.

No changes were made regarding proposed rule 20:10:27:02.02 which would allow a CLEC to file a cost study, with the cost study being one of the factors used in determining the switched access rate. As a result of the rules, a CLEC may either charge a switched access rate that does not exceed the Regional Bell Operating Company rate or it may choose to have its switched access rate based on a company specific cost study that will be evaluated along with other factors to determine the CLEC's switched access rate.

3. What is the basis for the enactment of the rule(s)?
- Required to meet changes in federal law
  - Required to meet changes in state law
  - Required solely due to changes in date (i.e. must be changed annually)

Other: The Commission recently ruled that the switched access rates charged by CLECs are subject to price regulation instead of rate-of-return regulation. The changes to the rules recognize this change in classification.

4. Why is the rule(s) needed?

As stated above, the Commission recently ruled that the switched access rates charged by CLECs are subject to price regulation instead of rate-of-return regulation and so the proposed rules are needed to reflect this change in classification.

5. What small businesses or types of small businesses would be subject to the rule?

Competitive local exchange carriers are subject to the proposed rules.

6. Estimate the number of small businesses that would be subject to the rule.  
 1-99       100-499       500-999       1,000-4,999       More than 5,000  
 Unknown - please explain \_\_\_\_\_
7. Are small businesses required to file or maintain any reports or records under this rule?  
 Yes       No [However, an explanation of cost studies is included for informational purposes.]

In its original Small Business Impact Statement, the Commission listed a potential new record keeping requirement which was to determine how many access lines are in communities of 10,000 or more inhabitants. The revision to 20:10:27:02.01 would eliminate that potential new recordkeeping requirement.

#### Informational Explanation of Cost Studies

Although this revised Statement was required to address the revisions to 20:10:27:02.01 and no new reports or records are required by the proposed revisions, an explanation of the role of cost studies is being included in this section for informational purposes in order to explain the role of cost studies. A cost study is not a new record requirement caused by these revised rules. Under the current rules, all local exchange carriers are required to file a cost study unless they receive some type of waiver under the rules. The rules regarding cost studies have been in effect since 1993. Most all of the CLECs that are currently operating under a waiver under the current rules have agreed to rates that are lower than the rates charged by rural incumbent local exchange carriers. In fact, these current rates are often rates that are equal to or lower than the Regional Bell Operating Company's switched access rate.

Further, the proposed rules no longer require CLECs to seek a waiver in order to not have to file a cost study. Under the proposed rules, the CLEC may instead choose to set a rate not to exceed the rate of the Regional Bell Operating Company. If the CLEC believes that it is entitled to a higher rate under price regulation, then it may file a cost study.

If a company wants to file a cost study it would need to keep appropriate records to be able to file a cost study. These records are usually based on the uniform system of accounts. The uniform system of accounts is a historical financial accounting system which reports the results of operational and financial events of a telecommunications company in a manner which enables both management and regulators to assess these results within a specified accounting period. The Commission's cost study rules are currently detailed in ARSD chapters 20:10:27 through 20:10:29, inclusive. The Commission has a computer program that can be used by the carrier for its cost study that is based on the current, detailed rules in ARSD chapters 20:10:27 through 20:10:29, inclusive.

If a competitive local exchange carrier chooses to file a cost study to determine its switched access rate, a LEC will often hire a consultant with expertise in preparing cost studies for telecommunications companies.

a. If "yes," how many reports must a small business submit to the state on an annual basis?

b. If "yes," how much ongoing recordkeeping within the business is necessary?

c. If "yes," what type of professional skills would be necessary to prepare the reports or records?

- The average owner of a small business should be able to complete the reports and/or records with no assistance
- It is likely that a bookkeeper for a small business should be able to complete the reports and/or records
- It is likely that a small business person would need the assistance of a CPA to complete the reports and/or records
- It is likely that a small business person would need the assistance of an attorney to complete the reports and/or records
- Other
- Unknown - please explain \_\_\_\_\_

8. Are there any less intrusive or less costly methods to achieve the purpose of the rule (i.e. fewer reports, less recordkeeping, lower penalties)?

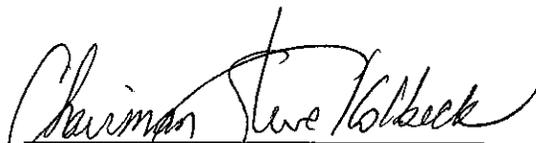
No - please explain

The rules were set to be in accordance with the implementation of price regulation for CLECs.

Yes - please explain \_\_\_\_\_

4-8-11

Dated

  
Authorized Signature

Public Utilities Commission  
Name of Agency