

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

APPROVAL OF RULES

Following public hearing held on August 2, 2007, the following rules are approved and will become effective twenty days after filing with the Secretary of State.

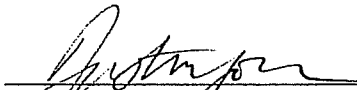
Proposed revised rules: §§ 20:10:24:02, 20:10:24:04.02, 20:10:24:04.05, 20:10:24:05, 20:10:32:03, 20:10:32:06.01, 20:10:32:10, 20:10:32:29, 20:10:32:31.01, 20:10:32:54, 20:10:32:55, 20:10:33:22, 20:10:34:02.02 and 20:10:34:10.

Date: August 14, 2007

Date _____

PUBLIC UTILITIES COMMISSION

LEGISLATIVE RESEARCH COUNCIL
(for legality and for form and style)



Dustin M. Johnson, Chairman



Gary Hanson, Commissioner



Steve Kolbeck, Commissioner

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

(1) The applicant's name, address, ~~and telephone number, of the applicant~~ facsimile number, web page URL, and E-mail address;

(2) A description of the legal and organizational structure of the applicant's company;

~~(2)~~ (3) The name under which the applicant will provide these interexchange services if different than in subdivision (1) of this section;

~~(3)~~ (4) If the applicant is a corporation:

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

~~(b)~~ (5) The location of ~~its~~ the applicant's principal office, if any, in this state and the name and address of its current registered agent, if applicable; ~~and~~

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

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

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

~~(5) (6) A list and specific description of the telecommunications services the applicant intends to offer;~~

~~(6) (7) A detailed statement of the means by which how the applicant will provide its services;~~

~~(7) (8) The geographic areas in which the services will be offered or a map describing the service area A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant;~~

~~(8) (9) Current For the most recent 12 month period, financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service . The applicant shall provide audited financial statements, if available;~~

~~(9) (10) The names, addresses, telephone number, ~~fax~~ facsimile number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles ~~customer billings and~~ customer service matters;~~

(11) Information concerning how the applicant plans to bill and collect charges from customers;

(12) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of interexchange customers;

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

(14) Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change;

~~(10)~~ (15) A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable;

~~(11)~~ (16) A description of how the applicant intends to market its services, its target market, whether the applicant engages in any multilevel marketing, and copies of any company brochures used to assist in the sale of services;

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

~~(13)~~ (17) Federal tax identification number and South Dakota sales tax number;

~~(14)~~ (18) The number and nature of complaints filed against the applicant with
any state or federal regulatory commission regarding the unauthorized switching of a
customer's telecommunications provider and the act of charging customers for services
that have not been ordered;

~~(15)~~ (19) A written request for waiver of those rules the applicant believes to be
inapplicable; and

~~(16)~~ (20) Other information requested by the commission needed to demonstrate
that the applicant has sufficient technical, financial, and managerial capabilities to
provide the interexchange services it intends to offer consistent with the requirements of
this chapter and other applicable rules and laws.

The commission may require the production of ~~an~~ audited financial ~~statement~~
statements and additional information to supplement that contained in the application. A
company shall notify the commission of any changes in subdivisions (1), ~~(2)~~ (3), (5), (7)
(8), and (9) (10) and subsection ~~(3)(b)~~ of this section as they occur. ~~If a company revises~~
~~its tariff, the revised tariff sheets shall be provided to the commission.~~

Source: 16 SDR 106, effective December 27, 1989; 21 SDR 81, effective
November 3, 1994; 22 SDR 107, effective February 18, 1996; 25 SDR 89, effective
December 27, 1998; 26 SDR 110, effective March 7, 2000.

General Authority: SDCL 49-31-3.

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

20:10:24:04.02. Suspension or revocation of certificate of authority. Failure of any provider of interexchange service to comply with applicable requirements set forth in this chapter, other terms and conditions imposed on its certification by the commission, or applicable rules and laws, or for other good cause may result in the suspension or revocation of the provider's certificate of authority to provide interexchange services. Other good cause may include the following conduct:

- (1) Failure to maintain accounts and records as required by the commission;
- (2) Failure to file with the commission all financial and other reports that the commission may require, in a form and at such times as the commission may designate;
- ~~(3) Failure to maintain on file with the commission all current tariffs and rates;~~
- (4) ~~(3)~~ Failure to cooperate with commission investigations or inquiries regarding customer complaints; and
- ~~(5)~~ ~~(4)~~ The furnishing or making of any misleading or false statement or report by an officer or agent of a telecommunications company, including those made by its legal counsel, to the commission.

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

General Authority: SDCL 49-31-3.

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

20:10:24:04.05. Performance bonds. 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 be filed with the commission and shall be for the benefit of a customer of the applicant. The bond or other security shall apply only to customers receiving wireline interexchange service that is being provided in South Dakota 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 of Insurance of the State of South Dakota authorizing it to execute the same.

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

General Authority: SDCL 49-31-3.

Law Implemented: SDCL 49-31-3.

20:10:24:05. Alternative operator services. Each telecommunications company providing alternative operator services (AOS) must do the following unless the commission grants a waiver to omit a requirement:

(1) Apply for a certificate of authority with the commission pursuant to SDCL 49-31-3 and § 20:10:24:02 before providing service in South Dakota;

~~(2) File intrastate tariffs containing rates, charges, and rules for operator services, as well as for any associated intrastate long distance resale services, with the commission;~~

~~(3)~~ (2) Utilize auditable service quality standards, including call processing time requirements, which must be made available to the commission upon request;

(4) (3) Post on or in close proximity to the telephone in plain view of anyone using the telephone a notice in bold type which reads as follows:

SERVICES FROM THIS TELEPHONE MAY BE AT RATES DIFFERENT FROM YOUR LONG DISTANCE COMPANY. BEFORE PLACING YOUR CALL YOU HAVE THE RIGHT TO REQUEST INFORMATION REGARDING CHARGES FROM THE OPERATOR. INSTRUCTIONS FOR REACHING THE TELECOMMUNICATIONS COMPANY OF YOUR CHOICE ARE AVAILABLE FROM THAT COMPANY.

The notice must also include the name and address of the AOS company and a customer service toll-free telephone number for receipt of further service and billing information;

~~(5)~~ (4) Require operators to: ~~clearly identify the AOS;~~

(a) Identify the AOS provider, audibly and distinctly, to the consumer at the beginning of each telephone call and before the consumer incurs any charge for the call;

(b) Permit the consumer to terminate the telephone call at no charge before the call is connected;

(c) Disclose immediately to the consumer, upon request and at no charge to the consumer, a quotation of the rates or charges for the call, the methods by which rates or

charges will be collected, and the methods by which complaints concerning such rates, charges, or collection practices will be resolved; and

(d) Disclose, audibly and distinctly to the consumer, at no charge and before connecting any intrastate operator service call, how to obtain the total cost of the call, including any aggregator surcharge, or the maximum possible total cost of the call, including any aggregator surcharge, before providing further oral advice to the consumer on how to proceed to make the call. The oral disclosure shall instruct the consumer that the consumer may obtain applicable rate and surcharge quotations either, at the option of the provider of operator services, by dialing no more than two digits or by remaining on the line.

~~(6)~~ (5) Prohibit call blocking and explain the steps the company will take to ensure call blocking does not occur by its contracting entities. All AOS contracts with contracting entities must prohibit call blocking by the contracting entity. AOS companies may not knowingly pay commissions to any contracting entity which violates the blocking provisions of its contract with the AOS company;

~~(7)~~ (6) Immediately transfer emergency calls, 911 calls, or, if 911 service is unavailable in the calling area, local operator calls, to the local exchange company or to the applicable local emergency agency;

~~(8)~~ (7) For billing purposes, itemize, identify, and rate calls from the point of origination to the point of termination. No call may be transferred by an operator service provider to another carrier which cannot or will not complete the call unless the call can be billed in accordance with this subdivision;

~~(9)~~ (8) ~~No~~ Not charge for incompleting calls;

~~(10)~~ (9) Bill for its services only ~~and at the rates contained in its filed tariffs;~~

~~(11)~~ (10) Disclose its name, address, and phone number on any bill which includes charges for services it has provided; and

~~(12)~~ ~~Explain in detail how customers subscribing to the operator services are compensated; and~~

~~(13)~~ (11) Certify that the company is complying with all federal requirements established under the Telephone Operator Consumer Services Improvement Act of 1990, 47 U.S.C. § 226 ~~(October 27, 1992)~~ (April 1, 2007).

Contracts between AOS companies and contracting entities must contain provisions for posting the information required in subdivision ~~(4)~~ (3). The AOS companies are responsible for the form of the posting and must make efforts to assure implementation when the services are initiated from the telephone and when any changes occur in the information on the notice.

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

General Authority: SDCL 49-31-3, ~~49-31-5~~ 49-31-5(10).

Law Implemented: SDCL 49-31-3, ~~49-31-5~~, 49-31-5(10), 49-31-12.7.

CHAPTER 20:10:32

LOCAL EXCHANGE SERVICE COMPETITION

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20:10:32:03. Certificate of authority for local exchange service -- Application requirements. A telecommunications company required to apply for a certificate of authority for local exchange services from the commission shall submit a written application and provide the following information unless the commission grants a waiver to omit a specific item of information:

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

(2) ~~If a sole proprietorship, the full name and business address of its owner; if a partnership, the full name and business address of each partner; if a corporation, a listing of the full name and business address of each corporate officer and director; if a limited liability corporation, the full name and business address of each member; or, if a limited liability partnership, the full name and business address of each partner~~ A description of the legal and organizational structure of the applicant's company;

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

(4) If a corporation:

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

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

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

~~(d) If it is an out-of-state corporation, a~~ (5) A copy of its certificate of authority to transact business in South Dakota from the secretary of state;

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

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

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

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

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

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

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

~~(8)~~ (9) A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant;

~~(9)~~ (10) Information regarding the technical competence of the applicant to provide its proposed local exchange services including:

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

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

~~(10)~~ (11) Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services;

~~(11)~~ (12) ~~Financial information including:~~

~~(a)~~ For the most recent 12 month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available; and

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

~~(12)~~ (13) Information detailing the following matters associated with interconnection to provide proposed local exchange services:

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

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

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

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

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

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

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

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

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

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

~~(20)~~ (19) Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of local service customers by the applicant, its employees, or agents;

~~(21)~~ (20) The number and nature of complaints filed against the applicant with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered;

~~(21)~~ Information concerning how the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services;

~~(22)~~ Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change;

~~(22)~~ (23) A written request for waiver of those rules believed to be inapplicable;

~~(23)~~ (24) Federal tax identification number and South Dakota sales tax number;
and

~~(24)~~ (25) Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the local exchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws.

The commission may require the production of an audited financial statement statements and additional information to supplement that contained in the application. A company shall notify the commission of any changes in subdivisions (1), (3), (4) ~~(13)~~, and ~~(18)~~ (17) and ~~subsection (4)(a)~~ of this section as they occur. However, a ~~telecommunications company serving less than fifty thousand local exchange subscribers in this state is not required to file cost support information and its tariffs shall be filed for informational purposes only.~~

Source: 25 SDR 89, effective December 27, 1998; 26 SDR 110, effective March 7, 2000.

General Authority: SDCL 49-31-76.

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

20:10:32:06.01. Performance bonds. If it is 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 be filed with the commission and shall be for the benefit of a customer of the applicant. The bond or other security only applies to customers receiving local exchange service that is being provided in South Dakota by the applicant.

The commission may require an increase in the amount of the bond or other security 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 Division of Insurance of the State of South Dakota authorizing the surety company to execute the surety bonds.

Source:

General Authority: SDCL 49-31-76.

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

20:10:32:10. Service obligations of all providers – Request for waiver. A telecommunications company providing local exchange services shall, at minimum, make the following available to each customer:

- (1) Access to the public switched network;
- (2) Access to emergency services such as 911 or enhanced 911;
- (3) Access to a local directory and directory assistance;
- (4) Access to operator services;
- (5) Telecommunications relay service capability or access necessary to comply with state and federal regulations;
- (6) Nonpublished service upon written or verbal request of the customer; and
- (7) Access to interexchange services.

A telecommunications company may request a waiver from the commission of any of these requirements. The telecommunications company shall explain, in writing, why the company is unable to comply. The commission may grant the waiver if it finds:

(1) the requirement is not necessary based on the type of service being provided by the company;

(2) the waiver is not contrary to universal service, the public safety and welfare, and quality of service; and

(3) the waiver is in the public interest.

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

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-75, 49-31-76.

20:10:32:29. Petition for arbitration —~~Response to petition.~~ Any party to negotiations requested pursuant to SDCL 49-31-81 may petition the commission to arbitrate any unresolved issues. The petition for arbitration must include the following:

(1) The identity of each party to the negotiation, including the name, address, and telephone and facsimile numbers of each party or the party's representative;

(2) The date of the initial request for negotiation;

(3) A detailed list of all the unresolved issues the party or parties want the commission to arbitrate and the position of each party on those issues;

(4) A list of the issues resolved by the parties or a copy of any proposed contract language that reflects the resolution of those issues;

(5) A list of the unresolved issues, if any, that are not being submitted for arbitration;

(6) Any proposed contract language reflecting each party's position; and

(7) All documentation in the petitioner's possession or control that is relevant to the dispute;

(8) A request for a protective order, if needed; and

(9) A proposed procedural schedule.

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

General Authority: SDCL 49-31-76.

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

20:10:32:31.01 Participation by non-parties. An interested person who is not a party to the proceeding may attend the hearing as an observer, file written comments, and request the opportunity for oral argument to the commission.

Source:

General Authority: SDCL 49-31-76.

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

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

(1) A two-year service quality improvement plan as described in § 20:10:32:43.02;

~~(1)~~ (2) A progress report on its previously filed two-year service quality improvement plan, including maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The information shall be submitted at the wire center level;

~~(2)~~ (3) Detailed information on any outage, as that term is defined in 47 C.F.R. § 4.5 (January 1, 2006), of at least 30 minutes in duration for each service area in which an eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes if the outage affected at least ten percent of the end users served in a designated service area, or a 911 special facility, as defined in 47 C.F.R. § 4.5(e) (January 1, 2006). Information on the outage must include:

- (a) The date and time of onset of the outage;
- (b) A brief description of the outage and its resolution;
- (c) The particular services affected;
- (d) The geographic areas affected by the outage;
- (e) The steps taken to prevent a similar situation in the future; and
- (f) The number of customers affected;

(3) (4) The number of requests for service from potential customers within the eligible telecommunications carrier's service areas that were unfulfilled during the past year. The carrier shall also detail how it attempted to provide service to those potential customers, as set forth in § 20:10:32:43.01;

(4) (5) The number of complaints the eligible telecommunications carrier's complaint department has received from consumers for the previous calendar year;

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

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

(7) (8) Certification that the eligible telecommunications carrier is offering a local usage plan comparable to that offered by the incumbent local exchange carrier in the relevant service areas; and

(8) (9) Certification that the eligible telecommunications carrier acknowledges that it will be able to provide equal access to long distance carriers in the event that no other eligible telecommunications carrier is providing equal access within the service area.

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

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

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

20:10:32:55. Lifeline and link-up advertising requirements -- Annual report on outreach efforts. An eligible telecommunications carrier shall annually notify the availability of the federal lifeline and link-up assistance programs to each of its existing customers residing in the carrier's designated service area by written notification provided directly to the existing customers. A new customer residing in the carrier's designated service area shall receive written notification of lifeline and link-up assistance programs within 30 days after receiving telecommunications services. An eligible telecommunications carrier shall annually advertise the availability of lifeline and link-up services in media of general distribution throughout its service areas. ~~An~~ As part of its annual certification filing, an eligible telecommunications carrier shall submit a report on its outreach efforts designed to increase participation in the lifeline and link-up assistance programs to the commission. The report shall be filed by June first of each year and shall report on the eligible telecommunications carrier's outreach activities for the previous year.

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

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

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

20:10:33:22. Maintenance service interruptions -- Notification. Local exchange service interruptions due to maintenance requirements shall be done at a time that causes minimal inconvenience to the affected customers. To the extent possible, customers shall be notified in advance by the local exchange company of ~~extended~~ interruptions due to maintenance requirements that will last longer than ten minutes.

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.

CHAPTER 20:10:34

PROHIBITION AGAINST UNAUTHORIZED CHANGING OF TELECOMMUNICATIONS COMPANY AND CHARGING FOR UNAUTHORIZED SERVICES

Section

20:10:34:01 and 20:10:34:02 Repealed.

20:10:34:02.01 Authorization methods.

20:10:34:02.02. Exception for acquisition of subscriber base – Notification requirements.

20:10:34:03 Letter of agency form and content.

20:10:34:04 Exception for checks.

20:10:34:04.01 Electronic authorization.

20:10:34:05 Complaints of unauthorized changing of a telecommunications
company.

20:10:34:06 False, misleading, or deceptive statements prohibited.

20:10:34:07 Refund or credit of charges billed by unauthorized telecommunications company -- Payment for unauthorized change -- Opportunity for hearing.

20:10:34:08 Subscriber telecommunications bills -- Charges for change of telecommunications company.

20:10:34:09 Billing requirements.

20:10:34:10 Notification of increase in rates.

20:10:34:10.01 Complaints of unauthorized billing of products or services.

20:10:34:11 Refund or credit of unauthorized charges -- Payment for unauthorized charge -- Opportunity for hearing.

20:10:34:02.02. Exception for acquisition of subscriber base – Notification requirements. A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's authorization and verification if the acquiring carrier complies with the following:

(1) No later than 30 days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file with the commission a letter notification providing the name of each party to the transaction, the types of telecommunications services to be provided to the affected subscribers, and the date of the transfer of the subscriber base to the acquiring carrier. In the letter notification, the acquiring carrier also shall certify compliance with the

requirement to provide advance subscriber notice in accordance with subdivision (3) of this section and attach a copy of the notice sent to the affected subscribers;

(2) If, subsequent to the filing of the letter notification with the commission, any material change to the required information develops, the acquiring carrier shall file written notification of any change with the commission no more than 10 days after the transfer date announced in the letter notification. The commission reserves the right to require the acquiring carrier to send an additional notice to the affected subscribers regarding such material changes; and

(3) Not later than 30 days before the transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall provide written notice to each affected subscriber of the information specified. The following information must be included in the advance subscriber notice:

(a) The date on which the acquiring carrier will become the subscriber's new provider of telecommunications service;

(b) The rates, terms, and conditions of the services to be provided by the acquiring carrier upon the subscriber's transfer to the acquiring carrier, and the means by which the acquiring carrier will notify the subscriber of any changes to these rates, terms, and conditions;

(c) The acquiring carrier will be responsible for any carrier change charges associated with the transfer, except where the carrier is acquiring customers by default, other than through bankruptcy, and state law requires the exiting carrier to pay these costs;

(d) The subscriber's right to select a different preferred carrier for the telecommunications services at issue, if an alternative carrier is available;

(e) Each subscriber receiving the notice, including a subscriber who has arranged preferred carrier freezes through a local service provider on the services involved in the transfer, will be transferred to the acquiring carrier, unless the subscriber has selected a different carrier before the transfer date. The acquiring carrier shall notify the subscriber that the subscriber's existing preferred carrier freezes on the services involved in the transfer will be lifted and the subscriber must contact the subscriber's local service provider to arrange a new freeze;

(f) Whether the acquiring carrier will be responsible for handling any complaints filed, or otherwise raised, prior to or during the transfer against the selling or transferring carrier; and

(g) The toll-free customer service telephone number of the acquiring carrier.

Source:

General Authority: SDCL 49-31-89.

Law Implemented: SDCL 49-31-89, 49-31-90, 49-31-91.

20:10:34:10. Notification of increase in rates. Prior to changing any rate, term, or condition of service, a telecommunications company shall notify the subscriber of the change, at least 30 days in advance, if it may result in an increase in rates is a materially adverse change. A materially adverse change is a change which increases a rate or which modifies a term or condition of service making it more burdensome on the customer as determined from the perspective of a reasonable person in the average customer's

position. Written notification of ~~an increase in rates~~ a materially adverse change shall be ~~stated on the bill, a bill insert, or a separate letter for~~ provided individually to each customer who has pre-subscribed to the company for toll or local exchange service receives a bill issued by the company. ~~If the customer has not pre-subscribed to the company, notification of an increase in rates shall be made through newspaper publication or by any other reasonable means.~~

Source: 25 SDR 89, effective December 27, 1998; 25 SDR 167, effective July 1, 1999.

General Authority: SDCL 49-31-77, 49-31-85, 49-31-89.

Law Implemented: SDCL 49-31-3, 49-31-12.8, 49-31-77, 49-31-85, 49-31-89.