



Capital

AFFIDAVIT

State of South Dakota, County of Hughes

Toni Richardson
oath, says: That he/she is the publisher of Capital Journal, a daily newspaper published in Hughes and State of South Dakota; that of the facts herein stated, that said newspaper published SDCL 17-2-2.1 through 17-2-2.4 inclusive within the said County of Hughes year next prior to the first publication of a legal display advertisement headed Notice of Public Hearing a printed copy of which, taken from the said newspaper for one success

October 9 1998
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That the full amount of the fee charged for the publication of the attached public notice inures to the sole benefit of the publisher or publishers; that no agreement or understanding for the division thereof has been made with any other person, and that no part thereof has been agreed to be paid to any person whomsoever; that the fees charged for the publication thereof are: \$ 208.24

Signed: Toni Richardson

subscribed and sworn to before me this 5 day of November 1998

May L Baker

Notary Public in and for the County of Hughes, South Dakota.
My Commission expires 2-19, 2003.

Public Utilities Commission Notice of Public Hearing to Adopt Rules

A public hearing will be held in Room 412, fourth floor, State Capitol, Pierre, South Dakota, on November 2, 1998, at 8:30 a.m., to consider the adoption and amendment of proposed rules numbered

Revised rules: §§ 20:10-01-01, 20:10-01-01.01, 20:10-01-02, 20:10-01-07.01, 20:10-01-10, 20:10-01-11.01, 20:10-01-15, 20:10-01-15.02, 20:10-01-15.06, 20:10-01-17, 20:10-01-22.01, 20:10-01-25, 20:10-01-28, 20:10-01-29, 20:10-01-30.01, 20:10-01-30.02, 20:10-01-32, 20:10-24-01, 20:10-24-02, 20:10-24-03, 20:10-24-04, 20:10-28-45, 20:10-28-47, 20:10-28-105, 20:10-28-108, 20:10-28-117, 20:10-28-118, 20:10-29-14, 20:10-29-20, 20:10-29-34, 20:10-29-43. New Rules: §§ 20:10-24-03.01, 20:10-24-04.01, 20:10-24-04.02, 20:10-24-04.03, 20:10-24-04.04, 20:10-24-04.05; §§ 20:10-32-01 to 20:10-32-51, inclusive; §§ 20:10-33-01 to 20:10-33-34, inclusive; and §§ 20:10-34-01 to 20:10-34-11, inclusive. Repeal: §§ 20:10-25-01, 20:10-25-02, 20:10-25-03, 20:10-25-04; 20:10-28-115.

The effect of the revisions to §§ 20:10-01-01, 20:10-01-01.01, 20:10-01-02, 20:10-01-07.01, 20:10-01-10, 20:10-01-11.01, 20:10-01-15, 20:10-01-15.02, 20:10-01-15.06, 20:10-01-17, 20:10-01-22.01, 20:10-01-25, 20:10-01-28, 20:10-01-29, 20:10-01-30.01, 20:10-01-30.02, 20:10-01-32 is to revise procedural rules regarding proceedings before the commission. The revisions clarify the role of commission staff in a docket, simplify the procedures for filing a complaint, revise a definition, increase the number of copies of documents needed to be filed with the commission, revise discovery procedures, and list the procedures and standards to be followed when requesting reconsideration.

The reasons for the revisions to rules contained in ARSD chapter 20:10-01 are to simplify, clarify, and update the commission's procedural rules.

The effects of the revisions to §§ 20:10-24-01, 20:10-24-02, 20:10-24-03, 20:10-24-04 and the proposed promulgation of §§ 20:10-24-03.01, 20:10-24-04.01, 20:10-24-04.02, 20:10-24-04.03, 20:10-24-04.04, 20:10-24-04.05 are as follows: to add requirements for applying for a certificate of authority for interexchange carriers; to specify decision criteria for granting a certificate of authority; to set standards for the sale, assignment, lease, or transfer of certificates of authority; to set procedures for suspension or revocation of certificates of authority;

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PUBLIC UTILITIES COMMISSION
MINUTES OF PUBLIC HEARING

The Public Utilities Commission convened the rules hearing at 8:30 a.m. on Monday, November 2, 1998, in Room 412, Fourth Floor, State Capitol, Pierre, South Dakota.

The purpose of the meeting was to conduct a public hearing on the proposed rules of the Commission numbered: Revised rules: §§ 20:10:01:01, 20:10:01:01.01, 20:10:01:02, 20:10:01:07.01, 20:10:01:10, 20:10:01:11.01, 20:10:01:15, 20:10:01:15.02, 20:10:01:15.06, 20:10:01:17, 20:10:01:22.01, 20:10:01:25, 20:10:01:28, 20:10:01:29, 20:10:01:30.01, 20:10:01:30.02, 20:10:01:32, 20:10:24:01, 20:10:24:02, 20:10:24:03, 20:10:24:04, 20:10:28:45, 20:10:28:47, 20:10:28:105, 20:10:28:108, 20:10:28:117, 20:10:28:118, 20:10:29:14, 20:10:29:20, 20:10:29:34, 20:10:29:43. New rules: §§ 20:10:24:03.01, 20:10:24:04.01, 20:10:24:04.02, 20:10:24:04.03, 20:10:24:04.04, 20:10:24:04.05; §§ 20:10:32:01 to 20:10:32:51, inclusive; §§ 20:10:33:01 to 20:10:33:34, inclusive; and §§ 20:10:34:01 to 20:10:34:11, inclusive. Repeal of §§ 20:10:25:01, 20:10:25:02, 20:10:25:03, 20:10:25:04; 20:10:28:115.

Presiding Officers: Commissioners Jim Burg, Pam Nelson, and Laska Schoenfelder.

Members of the Commission in Attendance: Executive Director Bill Bullard; General Counsel Rolayne Ailtz Wiest; Staff Attorneys Karen Cremer and Camron Hoseck; Commission Advisor Greg Rislov; Telecommunications Analyst Harlan Best; Utility Analysts Bob Knadle, Dave Jacobson, Steve Wegman and Kylie Tracy; Consumer Representative Leni Healy; and Administrative Secretary Shirleen Fugitt.

Others in Attendance: Tom Welk, Jon Lehner, John Ulanskas, Dean Martineau, Juan Vela, Colleen Sevold, and Deborah Bowman, U S WEST Communications; Bill Heaston, Dakota Telecommunications Group; Larry Thompson and Don Lee, Martin & Associates; Rich Coit, South Dakota Independent Telephone Coalition; Tom Harmon and Don Low, Sprint; Sandy Hofstetter and Mary Tribby, AT&T; Dave Gerdes, MCI Worldcom; Daryl Pearson, Gordon McDaniel, Lavonne Dewald, Noriko McDaniel and Richard Dewald, McCook Cooperative Telephone; Kyle White, Black Hills FiberCom; Tom Simmons and Mary Lohnes, Midco Communications; Rod Carlson, Midcontinent Cable; Randy Houdek, Randy Olson, Al Whiting and Warren Gilchrist, Sully Buttes Telephone; Rod Bowar, Kennebec Telephone Company; Clinton Hanson and Keith Taylor, James Valley Cooperative Telephone; and Mark Benton, Midstate Telephone.

Written Testimony: Accent Communications, Inc.; Steve Stewart; Joseph D. Clark; Dakota Telecommunications Group; South Dakota Independent Telephone Coalition; James Valley Cooperative Telephone Company; Telecommunications Resellers Association; Black Hills FiberCom; Sprint Communications Company L.P.; MCI WorldCom, Inc.; U S WEST Communications, Inc.; and AT&T Communications of the Midwest, Inc.

Oral Testimony

CHAPTER 20:10:01

Tom Welk, U S WEST, proposed the addition of a rule dealing with how motions are heard and decided by the Commission.

Bill Heaston, DTG, will submit written comments.

Dave Gerdes, MCI, noted that he does not want the Commission to strike the language dealing with broadening of issues in 20:10:01:15.06.

CHAPTER 20:10:24

Rich Coit, SDITC, noted concern with the removal of the word "adjacent" from the definition of extended area service in 20:10:24:01(7). With respect to 20:10:24:03.01, Mr. Coit also recommended the deletion of "service obligations" in subdivision (3) and the provisions in subdivisions (4) and (5) that deal with facilities and resale or interconnection arrangements.

Mr. Heaston noted some concern with the requirements increasing instead of decreasing.

Mr. Gerdes questioned whether the Commission wants to be limited to only two options in show cause orders in 20:10:24:04.04 and whether it may want to accept property bonds in addition to corporate surety bonds in 20:10:24:04.05.

CHAPTER 20:10:25

Repealed.

CHAPTERS 20:10:28 and 20:10:29

Mr. Coit spoke in opposition to the proposed changes in 20:10:28:105, 20:10:28:117, and 20:10:28:118, requested changes for billing and collection costs in 20:10:28:118, and recommended no changes in 20:10:29.

CHAPTER 20:10:32

Mr. Coit supports the Commission's proposed changes.

Don Low, Sprint, suggested that the Commission may wish to set forth more procedural details in the rural telephone company exemptions in 20:10:32:39. Mr. Low also referred to 20:10:32:43 and questioned whether the Commission intends to hold the competitor to the same service area as a rural telephone company.

Mr. Heaston feels the requirements placed upon an applicant for a local exchange certificate are burdensome and unnecessary. He also objected to being committed to a calling area under 20:10:32:11.

Sandy Hofstetter, AT&T, objected to the local calling scope for alternative providers in 20:10:32:11. She also noted concerns with the annual reporting requirements under 20:10:32:13. Ms. Hofstetter then discussed 20:10:32:38 and stated that the requirements for filing an interconnection request exceeded the requirements of the Federal Act. She also believed that 20:10:32:40 should only be applied to rural telephone companies. She expressed concern that 20:10:22:43 redefines public interest and stated that 20:10:32:45 needed to be clarified.

Mr. Gerdes, MCI, suggested combining solicitation of new customers and marketing into one subparagraph under 20:10:32:03. Mr. Gerdes objected to the inclusion of telemarketing scripts in the application process. Mr. Gerdes also objected to 20:10:32:11 which deals with being committed to a local calling area.

CHAPTER 20:10:33

Mr. Heaston will submit written comments.

Ms. Hofstetter commented that AT&T believes that it is inappropriate to apply these rules to competitive local exchange companies. She further stated that AT&T believes that 20:10:33:32 is inappropriate in a competitive environment.

Mr. Coit proposed the use of the reasonably comparable language from the statute rather than the substantially equivalent language in 20:10:33:03. Mr. Coit further stated that his position is that if the Commission adopts 20:10:33:03, it has a corresponding obligation to commit itself to supporting any efforts in the industry to establish a state universal service funding mechanism. In 20:10:33:04, Mr. Coit proposed deleting the word "upgraded." He also commented that in subsection (5), the data speed requirement may be different than the federal definition of universal service. In 20:10:33:05, Mr. Coit proposed that the language in the statute be the same as the State Telecommunications Modernization Plan language. Mr. Coit proposed in 20:10:33:09 that the word "available" be deleted and replaced with the word "accessible" and he noted some concerns with the charges for construction of facilities. Mr. Coit proposed the addition of the words "within a reasonable period of time" in the last sentence of 20:10:33:14. In 20:10:33:15, Mr. Coit noted that he feels that the language concerning switches was vague and stated that the survivable ring technology was very expensive. And, in 20:10:33:21, Mr. Coit recommended that the language should read eight hours with a "plus and minus 15 percent" included. With respect to 20:10:33:23, Mr. Coit proposed that instead of using the word "report," customers should be required to provide the company with verification of medical conditions. In 20:10:33:25, Mr. Coit proposed an increase in the 50 customer threshold. And, in 20:10:33:29, Mr. Coit proposed replacing the words "customer access" with the words "local service area access." Mr. Coit would also like to see the requirements in 20:10:33:33 limited to

Lifeline users.

Mr. Low noted that Sprint will comment extensively in its written comments on the rule dealing with the disconnection for nonpayment of toll services in 20:10:33:33. He stated that prohibiting disconnection will increase uncollectibles.

Mr. Lehner, representing U S WEST, presented comments on 20:10:33 and indicated that the costs would be high for updating the network. He believes that 20:10:33:09 and 20:10:33:14 were too ambiguous. Mr. Lehner would like to see the 50 customer threshold raised; to avoid real time reporting except in certain circumstances; that switch failures be identified; and that the threshold for reporting exchange cable failures be raised.

Mr. Martineau, Mr. Vela, and Mr. Ulankas, representing U S WEST, commented that the 14,400 bps data rate in 20:10:33:04(5) and the 1 Mbps requirement for new facilities in 20:10:33:05 would be very costly to implement. With respect to the survivable network requirements in 20:10:32:15, they estimated that it would cost \$135.00 per customer to comply with that rule.

In his comments on 20:10:33:32, Mr. Welk noted that he does not believe that 49-31-85 allows the commission to consider, on an individual company basis, a waiver of a service standard. He also stated that SDCL 49-31-60 requires the Commission to consider a fair return on investment.

Mr. Coit spoke in favor of the waiver rule found at 20:10:33:32.

Mr. Simmons stated he shared U S WEST's concerns about the costs involved in upgrading the facilities and how those costs would be recovered. He also believed that 20:10:33:30 should have an actual minimum number of lines affected rather than a percentage for the reporting of service disruptions.

CHAPTER 20:10:34

Mr. Heaston stated that DTG provided written comments concerning chapter 20:10:34.

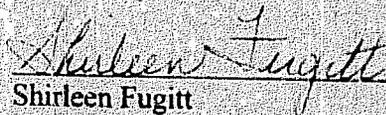
Mr. Low noted that Sprint has concerns with the slamming provisions in 20:10:34, specifically the potential six month refund period in 20:10:34:07.

Mr. Gerdes requested that 20:10:34:02(4) be deleted. Mr. Gerdes commented on 20:10:34:03(6) and suggested that the "precise" amount of each charge would be impossible to determine. Mr. Gerdes objected to the total amount of the charges being refunded to a customer when dealing with unauthorized switching as stated in 20:10:34:06. He feels that the charges should be re-rated, instead of refunded in their entirety.

Ms. Hofstetter commented on 20:10:34 and noted that she feels that the methods of verification of changes in providers in the FCC rules dealing with slamming should be included in these rules. She also stated that if a customer is slammed, the bill should be re-rated.

Ms. Wiest reported that a final version of these rules should be completed by November 30, 1998.

Respectfully submitted,



Shirleen Fugitt
Administrative Secretary
Public Utilities Commission

The hearing concluded at 12:15 p.m.

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

AFFIDAVIT

I, Delaine Kolbo, hereby certify that on November 25, 1998, I mailed a full, true, and correct copy of the following rules adopted by the Public Utilities Commission on November 25, 1998, together with a copy of the minutes of the public hearing and written comments, to the members of the Interim Rules Review Committee, listed below, at their respective post office addresses:

Revised rules: §§ 20:10:01:01, 20:10:01:02, 20:10:01:07:01, 20:10:01:10, 20:10:01:11:01, 20:10:01:15, 20:10:01:15:02, 20:10:01:15:06, 20:10:01:17, 20:10:01:22:01, 20:10:01:25, 20:10:01:28, 20:10:01:29, 20:10:01:30:01, 20:10:01:30:02, 20:10:01:32, 20:10:24:01, 20:10:24:02, 20:10:24:03, 20:10:24:04, 20:10:28:45, 20:10:28:47, 20:10:28:108, 20:10:29:14, 20:10:29:20, 20:10:29:34, 20:10:29:43. New rules: §§ 20:10:24:04:01, 20:10:24:04:02, 20:10:24:04:03, 20:10:24:04:04, 20:10:24:04:05, §§ 20:10:32:01 to 20:10:32:50, inclusive; §§ 20:10:33:01 to 20:10:33:32, inclusive; and §§ 20:10:34:01 to 20:10:34:11, inclusive. Repeal of §§ 20:10:25:01, 20:10:25:02, 20:10:25:03, 20:10:25:04, 20:10:28:115.

The Honorable Harold W. Halverson
State Senator
47049 151st Street
Twin Brooks, SD 57269

The Honorable William F. Cerny
State Representative
Route 1, Box 2
Burke, SD 57523-9501

The Honorable H. Paul Dennert
State Senator
11853 391st Avenue
Columbia, SD 57433-7002

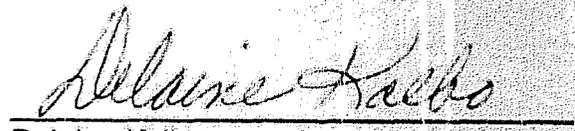
The Honorable Patricia de Hueck
State Representative
117 South Pierre Street
Pierre, SD 57501

The Honorable Jerry J. Shoener
State Senator
4012 Clover Street
Rapid City, SD 57702-0252

The Honorable Roger W. Hunt
State Representative
48190 265th Street
Brandon, SD 57005-9747

Subscribed and sworn to
before me this 25th day
of November, 1998.

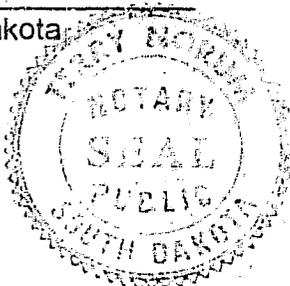

Notary Public - South Dakota


Delaine Kolbo

(SEAL)

My Commission Expires

March 2, 2001



IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

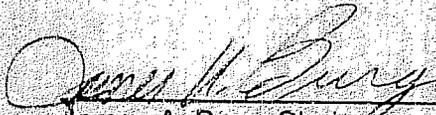
APPROVAL OF RULES

Following public hearing held on November 2, 1998, the following rules, attached, are approved and will become effective twenty days after filing with the Secretary of State.

Revised rules: §§ 20:10:01:01, 20:10:01:02, 20:10:01:07:01, 20:10:01:10, 20:10:01:11:01, 20:10:01:15, 20:10:01:15:02, 20:10:01:15:06, 20:10:01:17, 20:10:01:22:01, 20:10:01:25, 20:10:01:28, 20:10:01:29, 20:10:01:30:01, 20:10:01:30:02, 20:10:01:32, 20:10:24:01, 20:10:24:02, 20:10:24:03, 20:10:24:04, 20:10:28:45, 20:10:28:47, 20:10:28:108, 20:10:29:14, 20:10:29:20, 20:10:29:34, 20:10:29:43. New rules: §§ 20:10:24:04:01, 20:10:24:04:02, 20:10:24:04:03, 20:10:24:04:04, 20:10:24:04:05, §§ 20:10:32:01 to 20:10:32:50, inclusive; §§ 20:10:33:01 to 20:10:33:32, inclusive; and §§ 20:10:34:01 to 20:10:34:11, inclusive. Repeal of §§ 20:10:25:01, 20:10:25:02, 20:10:25:03, 20:10:25:04, 20:10:28:115.

Date: November 25, 1998

PUBLIC UTILITIES COMMISSION


James A. Burg, Chairman


Pam Nelson, Commissioner


Laska Schoenfelder, Commissioner

Date: 12-1-98


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

IN THE MATTER OF THE
PROMULGATION OF
ADMINISTRATIVE RULES

CERTIFICATE

I, James A. Burg, hereby certify that I am a duly appointed member and the duly elected chair of the Public Utilities Commission and that the attached instruments are full, true, and correct copies of the following rules adopted by the Public Utilities Commission on November 25, 1998.

Revised rules: §§ 20:10:01:01, 20:10:01:02, 20:10:01:07.01, 20:10:01:10, 20:10:01:11.01, 20:10:01:15, 20:10:01:15.02, 20:10:01:15.06, 20:10:01:17, 20:10:01:22.01, 20:10:01:25, 20:10:01:28, 20:10:01:29, 20:10:01:30.01, 20:10:01:30.02, 20:10:01:32, 20:10:24:01, 20:10:24:02, 20:10:24:03, 20:10:24:04, 20:10:28:45, 20:10:28:47, 20:10:28:108, 20:10:29:14, 20:10:29:20, 20:10:29:34, 20:10:29:43. New rules: §§ 20:10:24:04.01, 20:10:24:04.02, 20:10:24:04.03, 20:10:24:04.04, 20:10:24:04.05, §§ 20:10:32:01 to 20:10:32:50, inclusive; §§ 20:10:33:01 to 20:10:33:32, inclusive; and §§ 20:10:34:01 to 20:10:34:11, inclusive. Repeal of §§ 20:10:25:01, 20:10:25:02, 20:10:25:03, 20:10:25:04, 20:10:28:115.

I further certify that SDCL 1-26-4 and 1-26-6 were complied with in the adoption of these rules. These rules will become effective twenty days after filing with the Secretary of State.

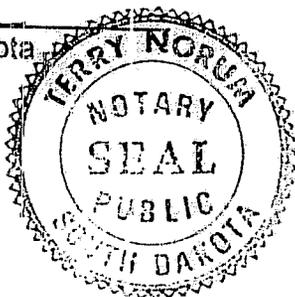

James A. Burg, Chairman
Public Utilities Commission

Subscribed and sworn to
before me this 7th day
of December, 1998.


Notary Public - South Dakota

(SEAL)

My Commission Expires
March 2, 2001



Filed this 7th day of
Dec, 19 98


Joyce Hagelstine

SECRETARY OF STATE