

AN ACT

ENTITLED, An Act to revise certain provisions regarding the regulation of telecommunication companies.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That section 5 of HB 1160 as previously enacted by the Seventy-third Legislative Assembly be amended to read as follows:

Section 5. That § 49-31-3 be amended to read as follows:

49-31-3. The commission has general supervision and control of all telecommunications companies offering common carrier services within the state to the extent such business is not otherwise regulated by federal law or regulation. The commission shall inquire into any complaints, unjust discrimination, neglect, or violation of the laws of the state governing such companies. The commission may exercise powers necessary to properly supervise and control such companies.

Each telecommunications company that plans to offer or provide interexchange telecommunications service shall file an application for a certificate of authority with the commission pursuant to this section. Telecommunications companies seeking to provide any local exchange service shall submit an application for certification by the commission pursuant to this Act. Applications required by this section shall be filed by the company no less than sixty days before its initiation of telecommunications service in this state. The commission shall have the exclusive authority to grant a certificate of authority. Each telecommunications company shall submit a two hundred fifty dollar application fee with its application which shall be deposited into the gross receipts tax fund established pursuant to § 49-1A-2. If the commission has not ruled upon an application at the end of the sixty days, the telecommunications company may initiate telecommunications services in the state until the commission reaches a decision on the application. If the application is granted, the company may continue to offer its services. However, if the application is denied, the company shall cease and desist from offering any further services in this state. A telecommunications company

has the burden to prove in its application that it has sufficient technical, financial and managerial capabilities to offer the telecommunications services described in its application before the commission may grant a certificate of authority. The commission may rule upon a telecommunications company's application for a certificate of authority with or without hearing.

Any certificate of authority granted by the commission may be suspended or revoked pursuant to chapter 1-26 for a willful violation of the laws of this state, a willful failure to comply with a rule or order of the commission, or other good cause. The commission shall, by rules promulgated pursuant to chapter 1-26, prescribe the necessary procedures to implement this section. A telecommunications company that had lawful authority immediately prior to the effective date of this Act to provide interexchange telecommunications services shall continue to have such authority. Any certificate of authority to provide such telecommunications service may not be sold, assigned, leased, or transferred without commission approval. The offering of such telecommunications services by a telecommunications company without a certificate of authority or inconsistent with this section is a Class 1 misdemeanor.

Section 2. That section 12 of HB 1160 as previously enacted by the Seventy-third Legislative Assembly be repealed.

Section 3. That section 17 of HB 1160 as previously enacted by the Seventy-third Legislative Assembly be amended to read as follows:

Pursuant to 47 U.S.C. § 251(f)(1) as of January 1, 1998, the obligations of an incumbent local exchange carrier, which include the duty to negotiate and provide interconnection, unbundled network elements, resale, notice of changes and collocation, do not apply to a rural telephone company unless the company has received a bona fide request for interconnection, services, or network elements and the commission determines that the rural telephone company shall fulfill the request. The commission may only determine that the rural telephone company shall fulfill the request if, after notice and hearing pursuant to chapter 1-26, the commission finds that the request is not

unduly economically burdensome the request is technically feasible, and the request is consistent with the universal service principles and provisions set forth in 47 U.S.C. § 254 as of January 1, 1998. The commission shall make such determination within one hundred twenty days after receiving notice of the request. The person or entity making the request shall have the burden of proof as to whether each of the standards for reviewing the request has been met. Nothing in this section prevents a rural telephone company from voluntarily agreeing to provide any of the services, facilities, or access referenced by this section.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1097

Chief Clerk

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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1097

File No. _____

Chapter No. _____

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Received at this Executive Office
this ____ day of _____ ,

19__ at ____ M.

By _____
for the Governor

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The attached Act is hereby
approved this _____ day of
_____, A.D., 19__

Governor

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STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 19__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State