

State of South Dakota

EIGHTIETH SESSION
LEGISLATIVE ASSEMBLY, 2005

465L0524

SENATE BILL NO. 121

Introduced by: Senators Knudson, Adelstein, Apa, Bartling, Bogue, Broderick, Dempster, Gray, Hansen (Tom), McCracken, Moore, and Sutton (Dan) and Representatives Rounds, Brunner, Cutler, Dennert, Faehn, Frost, Garnos, Hargens, Hunhoff, Hunt, Lange, Miles, Pederson (Gordon), Rave, Rhoden, Thompson, Weems, and Wick

1 FOR AN ACT ENTITLED, An Act to revise the authority of the Public Utilities Commission
2 to approve the sale or transfer of telecommunications exchanges and to revise the provisions
3 concerning the obligation of telecommunications companies to report consolidations and
4 mergers.

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

6 Section 1. That § 49-31-20 be amended to read as follows:

7 49-31-20. ~~Any~~ Except for any company required to comply with § 49-31-59, each
8 telecommunications company that holds a certificate of authority to operate in this state shall
9 notify the commission of any consolidation or merger with another telecommunications
10 company.

11 Section 2. That § 49-31-59 be amended to read as follows:

12 49-31-59. ~~The Legislature recognizes that the sale of telephone exchanges has a profound~~
13 ~~impact upon South Dakota, especially during a time when the world is undergoing a revolution~~
14 ~~in telecommunications technology. Because the sale of any exchange in our state directly affects~~



1 ~~the continued vitality and viability of rural South Dakota during that revolution, it is the~~
2 ~~Legislature's intent that the sale of each exchange be held to a high degree of scrutiny. Any sale~~
3 ~~or transfer~~ of a telecommunications exchange shall be approved by a ~~vote of the Public Utilities~~
4 ~~Commission. A separate vote is required on the sale of each exchange. In voting, the~~
5 ~~commission. Within twenty days following receipt of a telecommunications company's~~
6 ~~application to sell or transfer an exchange, the commission shall publish notice of the proposed~~
7 ~~transaction in a newspaper of general circulation in each county in which an exchange to be sold~~
8 ~~or transferred provides service. The applicant shall reimburse the commission for the cost of the~~
9 ~~publication. The notice shall inform the public of their right to file a petition of intervention in~~
10 ~~the proceeding or to submit comment within fifteen days following publication of the notice.~~
11 ~~The commission shall, if applicable, consider the protection of the public interest, and to the~~
12 ~~extent applicable, the adequacy of local telephone service, the reasonableness of rates for local~~
13 ~~service, the provision of 911, Enhanced enhanced 911, and other public safety services, the~~
14 ~~payment of taxes, and the ability and commitment of the local exchange company to provide~~
15 ~~modern, state-of-the-art telecommunications services that will help promote economic~~
16 ~~development, tele-medicine, and distance learning in rural South Dakota. The. If no hearing is~~
17 ~~held on the application, the commission shall issue its order pursuant to this section within~~
18 ~~forty-five days following the publication of the notice. If a hearing is held on the application,~~
19 ~~the commission shall issue its order pursuant to this section within one hundred eighty twenty~~
20 ~~days of the filing of the application. For any application filed on or before March 30, 1995, the~~
21 ~~commission shall issue its order no later than August 1, 1995 following the publication of the~~
22 ~~notice. The commission's order may include conditions that the commission finds necessary to~~
23 ~~ensure compliance with the criteria set forth in this section. For the purposes of this section, the~~
24 ~~term, transfer, means any transaction, other than a sale and purchase of publicly traded stock~~

1 through a securities exchange, which will result in an actual change in control of the entity
2 owning the exchange at the parent level, but does not include an internal reorganization that
3 does not effect a change of control at the parent level or a reorganization pursuant to a plan
4 confirmed pursuant to 11 U.S.C. chapter 11. For the purposes of this section, the term,
5 exchange, means the switching, transmission, other equipment and facilities and associated
6 permits, authorizations, service rights, customer contracts, and related assets by which a
7 telecommunication company provides local exchange service throughout a local exchange area
8 utilizing its own facilities.