

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1156

Introduced by

Political Subdivisions Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to create and enact a new section to chapter 49-03.1 of the North Dakota
2 Century Code, relating to registration of telecommunications companies that are not incumbent
3 telecommunications companies; to amend and reenact subsection 2 of section 49-03.1-02 of
4 the North Dakota Century Code, relating to the definition of a public utility and certificates of
5 public convenience and necessity; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Subsection 2 of section 49-03.1-02 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 2. "Public utility" includes any association, person, firm, corporation, limited liability
10 company, or agency engaged or employed in this state to furnish its product or
11 services to the public generally which is statutorily subject to the jurisdiction of the
12 commission. The words "public utility" as used in this chapter ~~shall~~ do not apply to
13 electric public utilities, telecommunications companies that are not incumbent
14 telecommunications companies under chapter 49-21, or motor carriers of persons
15 or property for hire.

16 **SECTION 2.** A new section to chapter 49-03.1 of the North Dakota Century Code is
17 created and enacted as follows:

18 **Registration of telecommunications companies that are not incumbent**
19 **telecommunications companies - Penalty.**

20 1. Before providing service in this state or collecting payment for service in advance
21 of providing the service for which payment was collected, a telecommunications
22 company that is not an incumbent telecommunications company under chapter
23 49-21 shall register with the commission in a form satisfactory to the commission.

- 1 2. Registration must include, at a minimum, the following information, updated within
2 fifteen days after any change:
 - 3 a. The company's name, complete address, and telephone number;
 - 4 b. All names under which the company does business;
 - 5 c. All names under which the company has registered with the secretary of
6 state;
 - 7 d. The company's secretary of state system identification number;
 - 8 e. The name, title, address, and telephone number of an authorized
9 representative to whom the commission may make inquiries;
 - 10 f. A toll-free telephone number to which consumer inquiries or complaints may
11 be made; and
 - 12 g. Whether the company has ever had its authority to provide service revoked,
13 and if so, the date and jurisdiction of revocation.
- 14 3. As part of the registration process, the commission may require by rule the posting
15 of a surety bond in an amount determined by the commission. In addition to any
16 other penalties provided by law, a violation of this subsection or any rule or order
17 under this subsection is a class C felony if the accumulated customer loss resulting
18 from a violation is greater than five thousand dollars.
- 19 4. The commission may revoke a company's registration, after notice and hearing
20 under chapter 28-32, for violation of any law, rule, or order of the commission.
- 21 5. A company's registration is void if the company is voluntarily dissolved,
22 involuntarily dissolved, or forfeits its authority to transact business under state law.
23 The registration of a company that is involuntarily dissolved or that forfeits its
24 authority to transact business is void effective with the effective date of involuntary
25 dissolution under subsection 7 of section 10-19.1-146 or forfeiture under
26 subsection 8 of section 10-19.1-146.
- 27 6. If the commission finds an emergency exists that requires ex parte action, the
28 commission may issue a cease and desist order without prior notice against a
29 telecommunications company that the commission has reason to believe has not
30 complied with this section and is requiring that customers pay for service in
31 advance of receiving that service. The cease and desist order must be:

- 1 a. Directed against the telecommunications company's advance payment
2 requirements, not the company's provision of service to current customers;
3 b. Accompanied by service on the telecommunications company of a
4 commission order opening an investigation or a formal complaint regarding
5 the company's compliance with this section; and
6 c. Accompanied by service on the telecommunications company of a notice of
7 opportunity to be heard on the cease and desist order within fifteen days of
8 issuance of the cease and desist order.
9 7. Subsections 3 through 6 do not apply to a facilities-based company providing
10 commercial mobile radio service, as defined in title 47, Code of Federal
11 Regulations, part 20, section 20.3.