

**Fifty-ninth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1156
(Political Subdivisions Committee)
(At the request of the Public Service Commission)

AN ACT to create and enact a new section to chapter 49-03.1 of the North Dakota Century Code, relating to registration of telecommunications companies that are not incumbent telecommunications companies; to amend and reenact subsection 2 of section 49-03.1-02 of the North Dakota Century Code, relating to the definition of a public utility and certificates of public convenience and necessity; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

Registration of telecommunications companies that are not incumbent telecommunications companies - Penalty.

1. Before providing service in this state or collecting payment for service in advance of providing the service for which payment was collected, a telecommunications company that is not an incumbent telecommunications company under chapter 49-21 shall register with the commission in a form satisfactory to the commission.
2. Registration must include, at a minimum, the following information, updated within fifteen days after any change:
 - a. The company's name, complete address, and telephone number;
 - b. All names under which the company does business;
 - c. All names under which the company has registered with the secretary of state;
 - d. The company's secretary of state system identification number;
 - e. The name, title, address, and telephone number of an authorized representative to whom the commission may make inquiries;
 - f. A toll-free telephone number to which consumer inquiries or complaints may be made; and
 - g. Whether the company has ever had its authority to provide service revoked, and if so, the date and jurisdiction of revocation.

3. As part of the registration process, the commission may require by rule the posting of a surety bond in an amount determined by the commission. In addition to any other penalties provided by law, a violation of this subsection or any rule or order under this subsection is a class C felony if the accumulated customer loss resulting from a violation is greater than five thousand dollars.
4. The commission may revoke a company's registration, after notice and hearing under chapter 28-32, for violation of any law, rule, or order of the commission.
5. A company's registration is void if the company is voluntarily dissolved, involuntarily dissolved, or forfeits its authority to transact business under state law. The registration of a company that is involuntarily dissolved or that forfeits its authority to transact business is void effective with the effective date of involuntary dissolution under subsection 7 of section 10-19.1-146 or forfeiture under subsection 8 of section 10-19.1-146.
6. If the commission finds an emergency exists that requires ex parte action, the commission may issue a cease and desist order without prior notice against a telecommunications company that the commission has reason to believe has not complied with this section and is requiring that customers pay for service in advance of receiving that service. The cease and desist order must be:
 - a. Directed against the telecommunications company's advance payment requirements, not the company's provision of service to current customers;
 - b. Accompanied by service on the telecommunications company of a commission order opening an investigation or a formal complaint regarding the company's compliance with this section; and
 - c. Accompanied by service on the telecommunications company of a notice of opportunity to be heard on the cease and desist order within fifteen days of issuance of the cease and desist order.
7. Subsections 3 through 6 do not apply to a facilities-based company providing commercial mobile radio service, as defined in title 47, Code of Federal Regulations, part 20, section 20.3.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1156.

House Vote: Yeas 88 Nays 0 Absent 6

Senate Vote: Yeas 45 Nays 0 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2005.

Approved at _____ M. on _____, 2005.

Governor

Filed in this office this _____ day of _____, 2005,

at _____ o'clock _____ M.

Secretary of State