State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

555P0441

SENATE LOCAL GOVERNMENT

ENGROSSED NO. SB 151 - 1/23/2008

Introduced by: Senators Hansen (Tom), Abdallah, Albers, Koetzle, Lintz, McCracken, Napoli, and Schmidt (Dennis) and Representatives Cutler, Brunner, Dennert, Elliott, Halverson, Moore, Novstrup (Al), and Novstrup (David)

FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the purchase price and determining just compensation for electric facilities in areas annexed by municipalities.

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

Section 1. That § 49-34A-50 be amended to read as follows:

49-34A-50. If a municipality described by § 49-34A-49 elects to purchase the property of an electric utility, the municipality shall, within one year following annexation, offer to purchase the electric distribution properties of the utility located within the annexed area, together with all of the utility's rights to serve within ~~such~~ the annexed area, for ~~a cash~~ no less than the following consideration:

(1) Cash consideration ~~which shall consist~~ consisting of the present-day reproduction cost, new, of the facilities being acquired, less depreciation computed on a straight-line basis; ~~plus an~~

(2) An amount equal to the cost, on a nonbetterment basis, of constructing any necessary facilities to reintegrate the system of the utility outside the annexed area after

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Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

detaching the portion to be sold; ~~plus as compensation~~ and

(3) Compensation for service rights, ~~an annual amount, payable each year for a period of seven years, equal to~~ consisting of the sum of twenty-five percent of the gross revenues received from power sales to consumers of electric power within the annexed area ~~during said seven-year period~~, payable annually for a period of seven years. Gross revenues received shall be determined by applying the rate in effect by the utility whose territory is being purchased at the time of purchase. The compensation for service rights shall commence upon provision of service to each existing customer and new primary service connection within the annexed area and shall continue for seven years thereafter.

Section 2. That chapter 49-34A be amended by adding thereto a NEW SECTION to read as follows:

Nothing in this chapter prevents an electric utility from exercising its right to a jury trial on the question of just compensation as provided in S.D. Const., Art. VI, § 13 and Art. XVII, § 12. The question of just compensation shall be decided as provided in chapter 21-35 if the electric utility files an election to so proceed with the clerk of courts of the county in which any part of the municipality is located within sixty days of the effective date of a public utility commission order as specified in § 49-34A-51. In any action governed by this section, the electric utility's compensation may not be less than that provided by the formula in § 49-34A-50.