

State of South Dakota

EIGHTY-SEVENTH SESSION
LEGISLATIVE ASSEMBLY, 2012

850T0635

HOUSE BILL NO. 1121

Introduced by: Representatives Solum, Brunner, Fargen, Gosch, Hawley, Kirkeby, Lust, Rausch, Street, Verchio, White, and Willadsen and Senators Rave, Adelstein, Frerichs, Hansen (Tom), Johnston, Krebs, Lederman, Nelson (Tom), Olson (Russell), and Tieszen

1 FOR AN ACT ENTITLED, An Act to amend rate stability provisions to include plant additions.

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

3 Section 1. For purposes of §§ 49-34A-73 to 49-34A-78, inclusive, plant additions are
4 investments in fixed generation, transmission, and distribution assets, whether purchased or
5 constructed, including operations and maintenance expenses directly related to those fixed
6 assets, real property, and new power purchases.

7 Section 2. That § 49-34A-73 be amended to read as follows:

8 49-34A-73. Notwithstanding anything in this chapter to the contrary, an electric utility that
9 is subject to rate regulation by the commission and plans ~~major capital plant~~ plant additions ~~or new~~
10 ~~power purchases~~ that are expected to have a material impact on rates may make application to
11 the commission for a phase in rate ~~stability~~ plan to provide for the ~~phase-in~~ phase in of rate
12 increases prior to the commercial operations of the ~~major capital plant~~ plant additions ~~or new power~~
13 ~~purchases~~. The plan may provide for any of the following:

14 (1) Rate increases to be incrementally phased in prior to the commencement of



1 commercial operation of the plant additions ~~or new power purchases~~;

2 (2) To the extent rate increases for plant additions are allowed prior to commercial
3 operation, restrictions on the capitalization of allowance for funds used during
4 construction for the plant additions;

5 (3) Restrictions on other rate increases ~~during the construction period of the plant~~
6 ~~additions or term of the new power purchases~~; and

7 (4) Any other conditions which benefit the public interest and may be imposed by the
8 commission consistent with the findings in § 49-34A-74.

9 Section 3. That § 49-34A-74 be amended to read as follows:

10 49-34A-74. The commission may approve a ~~rate stability~~ phase in rate plan as provided in
11 § 49-34A-73 if:

12 (1) The electric utility makes application for a phase in rate stability plan prior to the
13 commencement of construction or acquisition of the plant additions ~~or new power~~
14 ~~purchases~~;

15 (2) The electric utility files with the application a full cost of service analysis as required
16 for general rate increases ~~and~~ including a projection of costs and ~~revenues~~ revenue
17 requirements to the date of the anticipated commercial operation of the plant
18 additions or through the term of the new power purchases;

19 (3) The commission ~~holds~~ affords an opportunity for a hearing with notice ~~to be~~ given
20 as required for any rate increase; and

21 (4) The commission finds that the phase in rate stability plan is likely to enhance
22 adequate utility service, rate stability, the financial stability of the electric utility,
23 reasonable capital costs, just and reasonable rates, a fair rate of return, and other
24 considerations that benefit the public interest.

1 Section 4. That § 49-34A-75 be amended to read as follows:

2 49-34A-75. At any time prior to one year after the conclusion of a phase in rate plan, the
3 commission, upon its own motion or upon petition of the electric utility, may examine the
4 reasonableness of the utility's rates under the plan, and adjust rates as necessary. Any rate
5 stability phase in rate plan is subject to annual review. The electric utility shall file annually an
6 abbreviated cost of service analysis showing that year's revenues, costs and revenue
7 requirements, and a report of the progress of the construction or acquisition of the capital plant
8 additions showing accumulative construction or acquisition costs for the year and updated cost
9 projections to complete the capital plant additions.

10 Section 5. That § 49-34A-76 be amended to read as follows:

11 49-34A-76. Within twelve months prior to ~~after~~ the ~~commercial operation of the capital~~
12 ~~additions~~ end of the phase in rate plan, the electric utility shall file a general rate case with a full
13 cost of service analysis including the ~~major capital plant~~ additions, unless, upon motion, the
14 commission determines that a general rate case would not be likely to result in material changes
15 to the rates in place under the phase in rate plan, in which event the rates under the phase in rate
16 plan will remain in effect until changed by further order of the commission. ~~After notice and~~
17 ~~hearing the commission shall adjust the rates under the criteria set forth in § 49-34A-8 to be~~
18 ~~charged by the electric utility commencing with the commercial operation of the major capital~~
19 ~~addition.~~

20 Section 6. That § 49-34A-77 be amended to read as follows:

21 49-34A-77. Upon filing an application for a phase in rate ~~stability~~ plan, the electric utility
22 shall pay a filing fee to be determined by the commission in an amount not to exceed ~~one~~ two
23 hundred fifty thousand dollars. The filing fee may also be used for any annual reviews pursuant
24 to § 49-34A-75.

1 Section 7. That § 49-34A-78 be amended to read as follows:

2 49-34A-78. If the commission does not approve a an application for a phase in rate stability
3 plan as defined in § 49-34A-73, the electric utility may not be prohibited from making,
4 acquiring, or constructing plant additions ~~and purchasing power~~ and requesting and obtaining
5 rate adjustments as authorized by this chapter.