

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

904B0691

SENATE BILL NO. 203

Introduced by: Senators Brosz and Vitter and Representatives Roe, Chicoine, Monroe, and Solum

1 FOR AN ACT ENTITLED, An Act to permit municipal power agencies to distribute electric
2 energy within or without the municipality.

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

4 Section 1. That § 9-39-39 be amended to read as follows:

5 9-39-39. The provisions of §§ 9-39-37 and 9-39-38 ~~shall do~~ not apply to contracts entered
6 into by a municipality with others for the construction, operation, or maintenance of jointly
7 owned electric generation, distribution, or transmission facilities.

8 Section 2. That § 9-41A-1 be amended to read as follows:

9 9-41A-1. Terms used in this chapter, ~~unless the context plainly otherwise requires,~~ mean:

10 (1) "Agency agreement," the written agreement between or among two or more cities
11 establishing a municipal power agency;

12 (2) "City," a city organized and existing under the laws of South Dakota, and authorized
13 by such laws or charter to engage in the local distribution and sale of electric energy.

14 Any city so engaged on January 1, 1978, may continue the distribution and sale of
15 electric energy, and every city now or hereafter authorized may exercise, either

1 individually or as a member of a municipal power agency, all of the powers granted
2 in this chapter;

3 (3) "City council," the city council or other similar board, commission, or body within a
4 city which is charged by law or its charter with the general control of the city's
5 governmental affairs;

6 (4) "Distribution," the conveyance of electric energy to retail consumers from a
7 transmission system, or from a generation facility situated within or in the immediate
8 vicinity of a city;

9 (5) "Generation," the production of electricity by any means and the acquisition of fuel
10 of any kind for that purpose, and includes ~~but is not limited to~~ the acquisition of fuel
11 deposits and the acquisition or construction and operation of facilities for extracting
12 fuel from natural deposits, for converting it for use in another form, for burning it in
13 place, and for transportation and storage;

14 (6) "Governing body," the city council or, if another board, commission, or body is
15 empowered by law or its charter or by resolution of the city council to establish and
16 regulate rates and charges for the distribution of electric energy within the city, such
17 board, commission, or body ~~shall be deemed to be~~ is the governing body. ~~When~~ If the
18 levy of a tax or the incurring of an obligation payable from taxes or any other action
19 of the board, commission, or body requires the concurrence, approval, or independent
20 action of the city council or another body under the city's charter or any other law, the
21 action ~~shall~~ may not be exercised under this chapter until the concurrence or approval
22 is received or the independent action is taken. The concurrence of the city council or
23 other elected body charged with the general management of a city ~~shall be~~ is required,
24 ~~prior to~~ before the adoption by the city of any resolution approving an agency
25 agreement or any amendment ~~thereto~~ to the agreement;

- 1 (7) "Municipal power agency," a separate political subdivision and municipal corporation
2 created by agreement between or among two or more cities exercising any of the
3 powers of acquisition, construction, reconstruction, operation, repair, extension, or
4 improvement of electric generation, distribution, or transmission facilities or the
5 acquisition of any interest ~~therein~~ in such facilities or any right to part or all of the
6 capacity ~~thereof~~ of such facilities;
- 7 (8) "Project," any plant, works, system, facilities, and real and personal property of any
8 nature whatsoever, together with all parts thereof and appurtenances hereto, used or
9 useful in the generation, distribution, production, transmission, purchase, sale,
10 exchange, or interchange of electric energy or any interest therein or capacity thereof;
- 11 (9) "Public agency," any city or other municipal corporation, political subdivision,
12 governmental unit, or public corporation created by or pursuant to the laws of this
13 state or of another state or of the United States, and any state or the United States,
14 and any person, board, or other body declared by the laws of any state or the United
15 States to be a department, agency, or instrumentality ~~thereof~~ of any state or the
16 United States;
- 17 (10) "Real property," lands, structures, franchises, and interests in land, including ~~but not~~
18 ~~limited to~~ lands under water, riparian rights, fees simple absolute, lesser interests such
19 as easements, rights-of-way, uses, leases, licenses, and all other incorporeal
20 hereditaments, legal and equitable estates, interests, and rights, terms of years, liens
21 on real property by way of judgments, mortgages, or otherwise, and claims for
22 damage to real property;
- 23 (11) "Transmission," the transfer of electric energy from a generating facility to, between,
24 or among one or more cities or municipal power agencies or other persons with
25 whom they may contract, and includes ~~but is not limited to~~ conversion of current and

1 voltage and transfer of energy from another source in exchange for energy supplied
2 by the contracting parties, ~~but does not include distribution.~~

3 Section 3. That § 9-41A-25 be amended to read as follows:

4 9-41A-25. A municipal power agency may purchase, sell, distribute, exchange, or transmit
5 electric energy within and outside the state in amounts it shall determine to be necessary and
6 appropriate to make the most effective use of its powers and to meet its responsibilities, and may
7 enter into agreements with any person with respect to that purchase, sale, distribution, exchange,
8 or transmission, on terms and for a period of time as its board of directors determines.

9 Section 4. That chapter 9-41A be amended by adding thereto a NEW SECTION to read as
10 follows:

11 Notwithstanding any other provision of law, a municipal power agency organized under this
12 chapter may engage in any lawful activity except banking, securities, and insurance.

13 Section 5. That chapter 9-41A be amended by adding thereto a NEW SECTION to read as
14 follows:

15 Information on pricing, costs, market share, customers, and personnel as may be deemed
16 proprietary by the municipal power agency is confidential. Such confidential information may not
17 be disclosed by employees of the municipal power agency either during employment or within
18 a period of two years following employment.