

AN ACT

ENTITLED, An Act to revise certain requirements regarding the ability of the Public Utilities Commission to regulate the sale or other disposition of the property, plant, business, or stock of electric or gas public utilities.

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

Section 1. That § 49-34A-35 be amended to read as follows:

49-34A-35. No public utility, without first being authorized to do so by the commission, may:

- (1) Sell, lease, or otherwise dispose of its property or business constituting an operating unit or system in this state to another person;
- (2) Sell, lease, or otherwise dispose of its operating property or plant used to provide gas or electric service to its customers in this state to another person;
- (3) Purchase the property or business constituting an operating unit or system in this state of another public utility; or
- (4) Merge or consolidate with another public utility operating in this state.

However, if the sale, lease, merger, consolidation, or other disposition of the property or business of one public utility to another person, as provided in subdivisions (1) to (4), inclusive, does not involve a sale, lease, merger, consolidation, or disposition wherein the fair market value exceeds ten million dollars, the sale, lease, merger, consolidation, or disposition is not subject to the restrictions of this section.

No person may acquire or gain control either directly or indirectly of any public utility doing business in this state that has a fair market value exceeding ten million dollars without the commission's prior authorization. As used in this section, the term, control, means the right to direct or cause the direction of the management and policies of the public utility, whether through the ownership of voting securities, by contract, or otherwise.

Section 2. That § 49-34A-36 be amended to read as follows:

49-34A-36. Upon the filing of an application for the approval of the commission to an action described in § 49-34A-35, the commission shall investigate the application, with or without public hearing, and in case of a public hearing, upon such notice as the commission may require. The commission shall act on the application within one hundred eighty days and shall approve the proposed action unless the commission finds that there is a likelihood of significant adverse impacts to customers in this state.

Section 3. That § 49-34A-37 be amended to read as follows:

49-34A-37. No public utility subject to the jurisdiction of the commission may purchase voting stock in another public utility doing business in South Dakota without first having made application to and received the approval of the commission within the time and in the manner provide in section 2 of this Act. An intentional violation of this section is a petty offense. After the first judgment, each day's violation is a separate offense.

Section 4. That § 49-34A-38 be repealed.

Section 5. That § 49-34A-38.1 be repealed.

An Act to revise certain requirements regarding the ability of the Public Utilities Commission to regulate the sale or other disposition of the property, plant, business, or stock of electric or gas public utilities.

I certify that the attached Act
originated in the

SENATE as Bill No. 25

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 25
File No. _____
Chapter No. _____

Received at this Executive Office
this ____ day of _____ ,

20__ at _____ M.

By _____
for the Governor

The attached Act is hereby
approved this _____ day of
_____, A.D., 20__

Governor

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20__
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State