

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0199

SENATE BILL NO. 40

Introduced by: The Committee on State Affairs at the request of the Public Utilities
Commission

1 FOR AN ACT ENTITLED, An Act to establish certain requirements regarding the separation
2 and protection of a gas and electric public utility's assets.

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

4 Section 1. That chapter 49-34A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Unless the commission otherwise orders, a public utility shall hold all owned or operated
7 public utility assets separate and segregated from the ownership, risks, and operations of any
8 subsidiaries or affiliates. The commission may approve the combining of assets if the
9 commission finds the combining does not pose an undue risk to the operation of the public
10 utility and is in the public interest.

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

13 Unless the commission otherwise orders, all debt of a public utility, whether secured or
14 unsecured, shall only be used to finance the public utility. If a public utility's assets that are
15 pledged or encumbered to secure debt are divested, the debt shall follow the assets and be



1 divested to the same extent as the assets. If a public utility's assets financed by unsecured debt
2 are divested, a proportionate share of the debt shall be divested.

3 Section 3. That chapter 49-34A be amended by adding thereto a NEW SECTION to read
4 as follows:

5 Unless the commission otherwise orders, no public utility may extend credit to any of its
6 subsidiaries or affiliates, pledge the assets of the public utility as collateral for the use or benefit
7 of any of its subsidiaries or affiliates, or guarantee any debt or obligations of any of its
8 subsidiaries or affiliates.

9 Section 4. That chapter 49-34A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 If the commission determines that a public utility is at risk of insolvency or may be unable
12 to fund reliable and adequate utility service, the commission may, after investigation and
13 opportunity for hearing, issue an order directing the public utility to cease paying dividends on
14 its common stock until the public utility is no longer at risk of insolvency and is able to fund
15 reliable and adequate service.