

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

400P0199

SENATE STATE AFFAIRS ENGROSSED NO. **SB 40** - 1/30/2008

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

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:

- 7 (1) A public utility shall hold all owned or operated public utility assets in one or more
8 legal entities separate and segregated from the legal entities of any nonutility
9 subsidiaries or affiliates;
- 10 (2) All secured debt of a public utility may be used only for public utility purposes. If
11 more than twenty percent of a public utility's secured assets are divested, the debt
12 shall follow the assets or be retired in the same proportion as the divested assets; and
- 13 (3) No public utility may extend credit to any of its nonutility subsidiaries or affiliates,
14 pledge the assets of the public utility as collateral for the use or benefit of any of its



1 nonutility subsidiaries or affiliates, or guarantee any debt or obligations of any of its
2 nonutility subsidiaries or affiliates.

3 Any public utility which does not comply with the provisions of this Act shall have two
4 years within which to become compliant. Notwithstanding any provision of this Act, after notice
5 and opportunity for hearing, the commission may grant a waiver of any provision of this Act if
6 the commission finds a waiver would not pose an undue risk to the operation of the public utility
7 and is in the public interest.