

State of South Dakota

EIGHTY-SECOND SESSION
LEGISLATIVE ASSEMBLY, 2007

400N0295

SENATE BILL NO. 25

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

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

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

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

6 49-34A-35. No public utility ~~shall~~ may sell, lease, or otherwise dispose of its property or
7 business constituting an operating unit or system in this state to another ~~public utility or person;~~
8 sell, lease, or otherwise dispose of its property or plant used to provide gas or electric service
9 to customers in this state to another person; purchase the property or business constituting an
10 operating unit or system in this state ~~to~~ of another public utility; or merge or consolidate with
11 another ~~public utility operating in this state~~ person, without first being authorized to do so by
12 the ~~Public Utilities Commission; provided, that in the event such~~ commission. However, if the
13 sale, lease, or other disposition of the property or business of one public utility to another ~~public~~
14 ~~utility~~ person does not involve a sale, lease, or disposition wherein the actual consideration
15 exceeds two ~~hundred thousand~~ million dollars, ~~such~~ the sale, lease, or disposition ~~shall~~ is not



1 ~~be~~ subject to the provisions of this section.

2 No person may acquire or control either directly or indirectly more than ten percent of the
3 total capital stock of any public utility doing business in this state without the commission's
4 prior authorization.

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

6 49-34A-36. Upon the filing of an application for the approval ~~and consent~~ of the ~~Public~~
7 ~~Utilities Commission~~ commission to an action described in § 49-34A-35, the commission shall
8 investigate the ~~same~~ application, with or without public hearing, and in case of a public hearing,
9 upon such notice as the commission may require, ~~and if it shall find that the proposed action is~~
10 ~~consistent with the public interests it shall give its consent and approval in writing. In reaching~~
11 ~~its determination, the commission shall take into consideration the reasonable value of the~~
12 ~~property, plant, equipment or securities to be acquired or disposed of or merged and~~
13 ~~consolidated. The commission shall act on the application within one hundred eighty days and~~
14 shall approve the proposed action unless the commission finds that there is a likelihood of
15 significant adverse impacts to customers in this state.

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

17 49-34A-37. No public utility subject to the jurisdiction of the ~~Public Utilities Commission~~
18 commission may purchase voting stock in another public utility doing business in South Dakota
19 without first having made application to and received the ~~consent~~ approval of the commission
20 ~~in writing or by order~~ within the time and in the manner provide in section 2 of this Act. An
21 intentional violation of this section is a petty offense. After the first judgment, each day's
22 violation is a separate offense.

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

24 ~~49-34A-38. The provisions of §§ 49-34A-35 to 49-34A-37, inclusive, shall not apply to any~~

1 ~~transaction which is subject to the jurisdiction of a federal agency or authority.~~

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

3 ~~—49-34A-38.1. Notwithstanding the provisions of §§ 49-34A-35 to 49-34A-38, inclusive, no~~
4 ~~person may acquire or control either directly or indirectly more than ten percent of the total~~
5 ~~capital stock of any public utility organized and doing business in this state or of any public~~
6 ~~utility organized under the laws of any other state receiving more than twenty-five percent of~~
7 ~~its gross revenue in this state without first securing authorization to do so from the Public~~
8 ~~Utilities Commission. Any such acquisition or control without the commission's prior~~
9 ~~authorization is void.~~