

AN ACT

ENTITLED, An Act to permit the Public Utilities Commission to approve tariff mechanisms for the automatic annual adjustment of charges for jurisdictional costs of new environmental measures.

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

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

Notwithstanding any other provisions of this chapter, the commission may approve a tariff mechanism for the automatic annual adjustment of charges for the jurisdictional capital costs and operating expenses incurred by a public utility for environmental improvements to its existing electric generation facilities. For the purposes of sections 1 to 4, inclusive, of this Act, environmental improvements include any requirements under the Clean Air Act, the Clean Water Act, or any other federal law or rule, or any state law or rule implementing a federal law or rule, or voluntary environmental measures designed to protect the environment.

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

Upon filing of an application consistent with rules promulgated by the commission by any public utility providing electric service, the commission may approve, reject, or modify, after notice and opportunity for hearing, a tariff that:

- (1) Allows the public utility to recover on a timely basis the costs and expenses net of revenues of environmental improvements described in section 1 of this Act;
- (2) Allows a return on investment at the level approved in the public utility's last general rate case, unless a different return is found to be consistent with the public interest;
- (3) Provides a current return on construction work in progress, if the recovery from retail customers for the allowance for funds used during construction is not obtained through

any other mechanism;

- (4) Allocates project costs and expenses appropriately between wholesale and retail customers; and
- (5) Terminates recovery once costs and expenses have been fully recovered or have otherwise been reflected in the public utility's general rates.

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

A public utility may file annual rate adjustments to be applied to customer bills paid under the tariff approved pursuant to section 2 of this Act. In the utility's filing, the public utility shall provide:

- (1) A description of and context for the costs and expenses of environmental improvements included for recovery;
- (2) A schedule for implementation of applicable projects;
- (3) The public utility's costs and expenses for these projects;
- (4) A description of the public utility's efforts to ensure the lowest reasonable costs to ratepayers for the project;
- (5) Calculations to establish that the rate adjustment is consistent with the terms of the tariff established in section 2 of this Act; and
- (6) Other information requested by the commission.

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

Upon receiving filing under section 3 of this Act for a rate adjustment pursuant to the tariff established in section 2 of this Act, the commission may approve, reject, or modify the annual rate adjustment after notice and opportunity for hearing. In making its decision, the commission shall consider whether the costs and expenses included for recovery through the tariff were or are expected

to be prudently incurred, will achieve environmental improvements at the lowest reasonable cost to ratepayers, and will allow the public utility to recover costs consistent with its allowed return on equity. To the extent the environmental improvement may affect the following, the commission may also consider whether the environmental improvement is likely to enhance adequate utility service, rate stability, the financial stability of the public utility, reasonable capital costs, just and reasonable rates, a fair rate of return, and other considerations that benefit the public interest.

Section 5. That § 49-1A-8 be amended to read as follows:

49-1A-8. There is created a special fund within the state treasury to be known as the South Dakota Public Utilities Commission Regulatory Assessment Fee fund. The Public Utilities Commission may require a public utility as defined in subdivision 49-34A-1(12) to make a deposit of up to one hundred thousand dollars when it files for approval of a general rate case, regardless of the number of issues involved, or files an integrated resource plan. The commission may require a deposit of up to one hundred twenty-five thousand dollars for a filing which combines a general rate case and an integrated resource plan. The commission may require a deposit of up to fifty thousand dollars for the filing of a tariff for approval under the provisions of § 49-34A-4 and §§ 49-34A-25.1 to 49-34A-25.4, inclusive, or makes a filing pursuant to this Act. The deposits shall be made to the South Dakota Public Utilities Commission Regulatory Assessment Fee fund, the amount to be designated by commission order. The fund shall be invested as provided by law, and the interest earned shall be credited to the fund.

An Act to permit the Public Utilities Commission to approve tariff mechanisms for the automatic annual adjustment of charges for jurisdictional costs of new environmental measures.

I certify that the attached Act
originated in the

SENATE as Bill No. 118

Secretary of the Senate

President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 118
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