



2023 South Dakota Legislature

Senate Bill 11

Introduced by: The Committee on Commerce and Energy at the request of the South Dakota Public Utilities Commission

1 **An Act to to update certain application fees for actions related to energy**
 2 **transactions in utility chargeback docket.**

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

4 **Section 1. That § 49-41B-12 be AMENDED:**

5 **49-41B-12.** At the time of filing an application as required in § 49-41B-11 or as
 6 subsequently required by the commission, an applicant shall deposit with the commission
 7 an initial amount to be determined by the commission based upon the estimated cost of
 8 processing, investigating, and reviewing, processing, an application and serving notice of
 9 an application for the estimated cost of litigating and enforcing a permit if issued under
 10 this chapter. The amount shall be deposited with the state treasurer and credited to a
 11 subfund within the designated revenue fund and ~~shall be~~ disbursed on vouchers approved
 12 by the commission for the actual cost of processing, investigating, and reviewing,
 13 processing, and serving notice of the application, an application and for the actual cost of
 14 litigating and enforcing a permit if issued under this chapter. The maximum fee chargeable
 15 may not exceed ~~one quarter of one percent of the first one hundred million dollars of~~
 16 ~~estimated construction cost plus one twentieth of one percent of all additional estimated~~
 17 ~~construction costs of the facility.~~ five hundred thousand dollars, unless the commission,
 18 after hearing from the applicant and parties, finds that a higher fee is necessary to
 19 complete its review under this chapter. However, the minimum total fee chargeable may
 20 not be less than eight thousand dollars.

21 ~~If the commission determines that an environmental impact statement should be~~
 22 ~~prepared as provided under chapter 34A-9 before taking final action on an application~~
 23 ~~under this chapter, the maximum fee chargeable above may be increased to an amount~~
 24 ~~not to exceed one half of one percent of the first one hundred million dollars of estimated~~
 25 ~~construction cost plus one twentieth of one percent of all additional estimated construction~~
 26 ~~costs of the facility. However, the provisions of this paragraph do not apply in cases in~~

1 ~~which a detailed environment impact study has been completed pursuant to the~~
2 ~~requirements of the National Environmental Policy Act of 1969 as amended to January 1,~~
3 ~~2009, and implementing regulations thereto if such a statement is available to the~~
4 ~~commission at least thirty days prior to the time the commission is required to render a~~
5 ~~decision under § 49-41B-24 or 49-41B-25. The provisions of this section apply to all~~
6 ~~pending permit applications and future permit applications before the commission.~~

7 **Section 2. That § 49-1A-8 be AMENDED:**

8 **49-1A-8.** There is created a special fund within the state treasury to be known as
9 the South Dakota Public Utilities Commission Regulatory Assessment Fee fund. The Public
10 Utilities Commission may require a public utility as defined in ~~subdivision 49-34A-1(12)~~ §
11 49-34A-1 to make a deposit of up to ~~two hundred fifty~~ five hundred thousand dollars when
12 it files for approval of a general rate case, regardless of the number of issues involved.
13 The commission may require a deposit of up to fifty thousand dollars for the filing of a
14 tariff for approval under the provisions of §§ 49-34A-4 and §§ 49-34A-25.1 to 49-34A-
15 25.4, inclusive, or makes a filing pursuant to §§ 49-34A-97 to 49-34A-100, inclusive. The
16 deposits shall be made to the South Dakota Public Utilities Commission Regulatory
17 Assessment Fee fund, the amount to be designated by commission order. ~~The fund shall~~
18 ~~be invested as provided by law, and the interest earned shall~~ on monies in the fund are
19 to be credited to the fund.