

State of South Dakota

EIGHTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2008

555P0441

SENATE ENGROSSED NO. **SB 151** - 1/28/2008

Introduced by: Senators Hansen (Tom), Abdallah, Albers, Koetzle, Lintz, McCracken, Napoli, and Schmidt (Dennis) and Representatives Cutler, Brunner, Dennert, Elliott, Halverson, Moore, Novstrup (Al), and Novstrup (David)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the purchase price
2 and determining just compensation for electric facilities in areas annexed by municipalities.

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

4 Section 1. That § 49-34A-50 be amended to read as follows:

5 49-34A-50. If a municipality described by § 49-34A-49 elects to purchase the property of
6 an electric utility, the municipality shall, within one year following annexation, offer to purchase
7 the electric distribution properties of the utility located within the annexed area, together with
8 all of the utility's rights to serve within ~~such~~ the annexed area, for ~~a cash~~ no less than the
9 following consideration:

10 (1) Cash consideration ~~which shall consist~~ consisting of the present-day reproduction
11 cost, new, of the facilities being acquired, less depreciation computed on a
12 straight-line basis; ~~plus an~~

13 (2) An amount equal to the cost, on a nonbetterment basis, of constructing any necessary
14 facilities to reintegrate the system of the utility outside the annexed area after



1 detaching the portion to be sold; ~~plus as compensation and~~
2 (3) Compensation for service rights, ~~an annual amount, payable each year for a period~~
3 ~~of seven years, equal to~~ consisting of the sum of twenty-five percent of the gross
4 revenues received from power sales to consumers of electric power within the
5 annexed area ~~during said seven-year period, payable annually for a period of seven~~
6 years. Gross revenues received shall be determined by applying the rate in effect by
7 the utility whose territory is being purchased at the time of purchase. The
8 compensation for service rights shall commence upon provision of service to each
9 existing customer and new primary service connection within the annexed area and
10 shall continue for seven years thereafter. However, no compensation for service
11 rights within the area annexed may extend more than seventeen years from the date
12 compensation is initially paid to the displaced utility.

13 Section 2. An electric utility and a municipality may agree to a negotiated cash consideration
14 in lieu of the compensation formula provided in subdivisions 49-34A-50(1), (2), and (3). The
15 agreement shall be filed with the Public Utilities Commission as evidence of the negotiated
16 consideration. Any agreement reached pursuant to this section may only be applied to the
17 annexed area identified in the agreement and may not be considered as evidence of a master
18 agreement applying to any past or future annexation unless so designated in the agreement.