

2025 South Dakota Legislature

House Bill 1008**AMENDMENT 1008A
FOR THE INTRODUCED BILL**

1 **An Act to include a hybrid facility as a facility to be regulated by the Public Utilities**
2 **Commission.**

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

4 **Section 1. That § 49-41B-2 be AMENDED:**

5 **49-41B-2.** Terms as used in this chapter mean:

- 6 (1) "AC/DC conversion facility," an asynchronous AC to DC to AC tie that is directly
7 connected to a transmission facility or a facility that connects an AC transmission
8 facility with a DC transmission facility, ~~or vice versa;~~
- 9 (2) "Associated facilities," ~~facilities which include~~ aqueducts, diversion dams,
10 transmission substations, storage ponds, reservoirs, or cooling ponds;
- 11 (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide
12 molecules compressed in a supercritical state;
- 13 (4) "Commission," the Public Utilities Commission;
- 14 (5) "Construction," any clearing of land, excavation, or other action that would affect
15 the environment of the site for each land or rights of way upon or over which a
16 facility may be constructed or modified, but not including activities incident to
17 preliminary engineering or environmental studies. This term includes modifications
18 to facilities as defined in § 49-41B-2.2;
- 19 (6) "Energy conversion facility," any new facility, or facility expansion, designed for or
20 capable of generation of one hundred megawatts or more of electricity, but does
21 not include any wind or solar energy facilities that are designed for or capable of
22 generating one hundred megawatts or more of electricity. This term includes a
23 hybrid facility capable of injecting one hundred megawatts or more of electricity
24 into the transmission or distribution system;

- 1 (7) ~~"Facility," any energy conversion facility,~~ AC/DC conversion facility, ~~transmission~~
 2 ~~facility,~~ energy conversion facility, hybrid facility, solar energy facility, transmission
 3 facility, or wind energy facility, and associated facilities;
- 4 (8) "Facility expansion," the addition of twenty-five megawatts AC or more of
 5 generation capacity to an existing generation source resulting in a combined
 6 megawatt capability of the new and existing generation of one hundred megawatts
 7 AC or more of electricity;
- 8 ~~(9)~~ "Hybrid facility," a new facility, or a facility expansion of twenty-five megawatts or
 9 more, comprised of more than one type of ~~electric storage system, energy~~
 10 ~~conversion facility, solar energy facility, or wind energy facility,~~ generation source
 11 and having a single point of interconnection to the distribution or transmission
 12 system;
- 13 ~~(9)(10)~~ "Permit," the permit issued by the commission under this chapter required for
 14 the construction and operation of a facility;
- 15 ~~(9)(10)(11)~~ "Person," an individual, partnership, limited liability company, joint
 16 venture, private or public corporation, association, firm, public service company,
 17 cooperative, political subdivision, municipal corporation, government agency,
 18 public utility district, or any other public or private entity, however organized;
- 19 ~~(10)(11)(12)~~ "Siting area," that area within ten miles in any direction of a proposed
 20 energy conversion facility, AC/DC conversion facility, or which is any other area
 21 determined by the commission to be affected by a proposed energy conversion
 22 facility;
- 23 ~~(11)(12)(13)~~ "Solar energy facility," a new facility, or facility expansion, consisting of
 24 a commonly managed integrated system of solar panels, power collection systems,
 25 electric interconnection systems, and associated facilities, that converts solar
 26 energy into electricity and is designed for or capable of generating one hundred
 27 megawatts AC or more of electricity. ~~A facility expansion includes the addition of~~
 28 ~~new solar panels, designed for or capable of generating twenty-five megawatts AC~~
 29 ~~or more of electricity, that are to be managed in common and integrated with~~
 30 ~~existing solar panels, and for which the combined megawatt capability of the~~
 31 ~~existing and new solar panels is one hundred megawatts AC or more of electricity;~~
- 32 ~~(13)(14)~~ "Trans-state transmission facility," an electric transmission line and its
 33 associated facilities which originates that:

1 ~~(a) Originates outside the State of South Dakota of this state,~~ crosses this state,
 2 and terminates outside the State of South Dakota of this state; and which
 3 transmission line and associated facilities delivers

4 (b) Delivers electric power and energy of twenty-five percent or less of the
 5 design capacity of ~~such the~~ line and facilities for use in the State of South
 6 Dakota this state;

7 ~~(12)~~(14)(15) "Utility," any person engaged in and controlling the generation or
 8 transmission of electric energy and gas or liquid transmission facilities, as defined
 9 by § 49-41B-2.1; and

10 ~~(13)~~(15)(16) "Wind energy facility," a new facility, or facility expansion, consisting of
 11 a commonly managed integrated system of towers, wind turbine generators with
 12 blades, power collection systems, and electric interconnection systems, that
 13 converts wind movement into electricity and that is designed for or capable of
 14 generation of one hundred megawatts or more of electricity. ~~A wind energy facility
 15 expansion includes the addition of new wind turbines, designed for or capable of
 16 generating twenty-five megawatts or more of electricity, which are to be managed
 17 in common and integrated with existing turbines and the combined megawatt
 18 capability of the existing and new turbines is one hundred megawatts or more of
 19 electricity. The number of megawatts generated by a wind energy facility is
 20 determined by adding the nameplate power generation capability of each wind
 21 turbine;~~

22 ~~(14) "Solar energy facility," a new facility, or facility expansion, consisting of a
 23 commonly managed integrated system of solar panels, power collection systems,
 24 electric interconnection systems, and associated facilities, that converts solar
 25 energy into electricity and is designed for or capable of generating one hundred
 26 megawatts AC or more of electricity. A facility expansion includes the addition of
 27 new solar panels, designed for or capable of generating twenty-five megawatts AC
 28 or more of electricity, that are to be managed in common and integrated with
 29 existing solar panels, and the combined megawatt capability of the existing and
 30 new solar panels is one hundred megawatts AC or more of electricity.~~

31 **Section 2. That § 49-41B-4.4 be AMENDED:**

32 **49-41B-4.4.** In the exercise of the authority of eminent domain pursuant to
 33 chapter 21-35 to acquire right-of-way or other property for a trans-state transmission
 34 facility, as defined by ~~subdivision 49-41B-2(9)~~ § 49-41B-2, a property owner shall have

1 the option to require the utility to take a fee interest in any amount of contiguous land
2 outside the designated right-of-way ~~which he~~ that the property owner owns and elects in
3 writing to transfer to the utility within sixty days of receipt of the notice of filing of a
4 petition pursuant to § 21-35-1. The fee acquisition of contiguous lands as required by this
5 section ~~shall be considered~~ is a taking for a public purpose and for use in the operation of
6 the utility. ~~However, the utility shall be~~ The utility is required to divest itself completely of
7 all lands used for farming or capable of being used for farming within five years after the
8 date of acquisition pursuant to this section. If these lands are not divested as provided by
9 this section, ~~they shall~~ must be sold at a public sale as provided by chapter 21-47 ~~relating~~
10 ~~to foreclosure of a real property mortgage by action.~~ No land more than one-half mile
11 from the center line of the power line ~~need~~ may be taken.

12 **Section 3. That § 49-41B-39 be AMENDED:**

13 **49-41B-39.** All right and title in any financial security required by the commission
14 for the decommissioning of a hybrid facility, wind turbines, or solar energy facilities must
15 be controlled by the commission, in accordance with the terms of the financial security
16 agreement or instrument, until the commission by order releases the security. The
17 financial security of the person required to provide it may not be cancelled, assigned,
18 revoked, disbursed, replaced, or allowed to terminate without commission approval.

19 The commission may require, accept, hold, or enter into any agreement or
20 instrument for the provision of financial security, including any funds reserved or held by
21 any person to satisfy or guarantee the obligation of an owner of wind turbines or solar
22 energy facilities permitted under this chapter, to decommission and remove the wind
23 turbines or solar energy facilities. The form, term, and conditions of the financial security
24 are subject to the approval of the commission. The commission shall determine any claim
25 upon the financial security made by any landowner for decommissioning and removal of
26 turbines or solar energy facilities.

27 Any financial security provided under this chapter may not be pledged or used as
28 security for any other obligation of the wind turbine or solar energy facilities owner, and
29 is exempt from attachment or mesne process, from levy or sale on execution, and from
30 any other final process issued from any court on behalf of third-party creditors of the
31 owner of the wind turbines or solar energy facilities. Any commission decision based on
32 any claim made by the owner of the wind turbines or solar energy facilities for refund or
33 return of the financial security, or for actual expenses of decommissioning, or any related
34 agreements, may be appealed.

1 ~~In any case, the~~The commission may appear in court and defend the integrity and
2 viability of the financial security for purposes of decommissioning and removal of ~~wind~~
3 ~~turbines or solar energy facilities~~ a hybrid facility, solar energy facility, or a wind turbine.
4 The commission may not require any financial security from an owner of wind turbines or
5 solar energy facilities who is also a public utility as defined in § 49-34A-1.

AMENDED