

AN ACT

ENTITLED, An Act to revise certain provisions concerning the authority of the Public Utilities Commission with regard to wind energy facilities.

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

Section 1. That § 49-41B-1 be amended to read as follows:

49-41B-1. The Legislature finds that energy development in South Dakota and the Northern Great Plains significantly affects the welfare of the population, the environmental quality, the location and growth of industry, and the use of the natural resources of the state. The Legislature also finds that by assuming permit authority, that the state must also ensure that these facilities are constructed in an orderly and timely manner so that the energy requirements of the people of the state are fulfilled. Therefore, it is necessary to ensure that the location, construction, and operation of facilities will produce minimal adverse effects on the environment and upon the citizens of this state by providing that a facility may not be constructed or operated in this state without first obtaining a permit from the commission.

Section 2. That § 49-41B-2 be amended to read as follows:

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

- (1) "Associated facilities," facilities which include, aqueducts, diversion dams, transmission substations of two hundred fifty kilovolts or more, storage ponds, reservoirs, or cooling ponds;
- (2) "Commission," the State Public Utilities Commission;
- (3) "Construction," any clearing of land, excavation, or other action that would affect the environment of the site for each land or rights of way upon or over which a facility may be constructed, but not including activities incident to preliminary engineering or environmental studies;

- (4) "Energy conversion facility," any new facility, or facility expansion, designed for or capable of generation of one hundred megawatts or more of electricity, but does not include any wind energy facilities;
- (5) "Facility," any energy conversion facility, transmission facility, or wind energy facility, and associated facilities;
- (6) "Permit," the permit issued by the commission under this chapter required for the construction and operation of a facility;
- (7) "Person," an individual, partnership, limited liability company, joint venture, private or public corporation, association, firm, public service company, cooperative, political subdivision, municipal corporation, government agency, public utility district, or any other public or private entity, however organized;
- (8) "Siting area," that area within ten miles in any direction of a proposed energy conversion facility or which is determined by the commission to be affected by a proposed energy conversion facility;
- (9) "Trans-state transmission facility," an electric transmission line and its associated facilities which originates outside the State of South Dakota, crosses this state and terminates outside the State of South Dakota; and which transmission line and associated facilities delivers electric power and energy of twenty-five percent or less of the design capacity of such line and facilities for use in the State of South Dakota;
- (10) "Utility," any person engaged in and controlling the generation or transmission of electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;
- (11) "Wind energy facility," a new facility, or facility expansion, consisting of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that converts wind movement

into electricity and that is designed for or capable of generation of one hundred megawatts or more of electricity. A wind energy facility expansion includes the addition of new wind turbines, designed for or capable of generating twenty-five megawatts or more of electricity, which are to be managed in common and integrated with existing turbines and the combined megawatt capability of the existing and new turbines is one hundred megawatts or more of electricity. The number of megawatts generated by a wind energy facility is determined by adding the nameplate power generation capability of each wind turbine.

Section 3. That § 49-41B-25 be amended to read as follows:

49-41B-25. Within six months of receipt of the initial application for a permit for the construction of a wind energy facility, substation, or transmission line of less than two hundred fifty kilovolts, the commission shall make complete findings, and render a decision, regarding whether a permit should be granted, denied, or granted upon such terms, conditions or modifications of the construction, operation or maintenance as the commission may deem appropriate. In its decision the commission must find that the construction of the facility meets all requirements of this chapter. Notice of the commission's decision shall be given to the applicant and to parties to the hearing within ten days following the decision.

Section 4. That § 49-41B-35 be amended to read as follows:

49-41B-35. To implement the provisions of this chapter regarding facilities, the commission shall promulgate rules pursuant to chapter 1-26. The commission shall prepare, in consultation with other state agencies, a single application form which incorporates information requirements of those state agencies or their boards or commissions which have related permit issuing powers that must be exercised prior to construction of a facility. Rules may be adopted by the commission:

- (1) To establish the information requirements and procedures that every utility must follow

when filing plans with the commission regarding its proposed and existing facilities;

- (2) To establish procedures for utilities to follow when filing an application for a permit to construct a facility, and the information required to be included in the application; and
- (3) To require bonds, guarantees, insurance, or other requirements to provide funding for the decommissioning and removal of a wind energy facility.

Section 5. That § 49-41B-36 be amended to read as follows:

49-41B-36. Nothing in this chapter may be construed as a delegation to the commission of the authority to route a transmission facility, or to designate or mandate location of an energy conversion facility or wind energy facility.

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I certify that the attached Act
originated in the

SENATE as Bill No. 17

Secretary of the Senate
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President of the Senate

Attest:

Secretary of the Senate

Speaker of the House

Attest:

Chief Clerk

Senate Bill No. 17
File No. _____
Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
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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