



2025 South Dakota Legislature

House Bill 1008

HOUSE COMMERCE AND ENERGY ENGROSSED

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

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;

- (7) ~~"Facility," any energy conversion facility, AC/DC conversion facility, transmission facility, energy conversion facility, solar energy facility, transmission facility, or wind energy facility, and associated facilities;~~
- (8) "Facility expansion," the addition of twenty-five megawatts AC or more of generation capacity to an existing generation source resulting in a combined megawatt capability of the new and existing generation of one hundred megawatts AC or more of electricity;
- (9) "Hybrid facility," a new facility, or a facility expansion, comprised of more than one type of generation source and having a single point of interconnection to the distribution or transmission system;
- (10) "Permit," the permit issued by the commission under this chapter required for the construction and operation of a facility;
- ~~(9)~~(11) "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;
- ~~(10)~~(12) "Siting area," that area within ten miles in any direction of a proposed energy conversion facility, AC/DC conversion facility, or which is any other area determined by the commission to be affected by a proposed energy conversion facility;
- ~~(11)~~(13) "Solar energy facility," a new facility, or facility expansion, consisting of a commonly managed integrated system of solar panels, power collection systems, electric interconnection systems, and associated facilities, that converts solar energy into electricity and is designed for or capable of generating one hundred megawatts AC or more of electricity;
- (14) "Trans-state transmission facility," an electric transmission line and its associated facilities which originates that:
- (a) Originates outside the State of South Dakota of this state, crosses this state, and terminates outside the State of South Dakota of this state; and which transmission line and associated facilities delivers
- (b) Delivers electric power and energy of twenty-five percent or less of the design capacity of such the line and facilities for use in the State of South Dakota this state;

~~(12)~~(15) "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; and

~~(13)~~(16) "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;~~

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

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

49-41B-4.4. In the exercise of the authority of eminent domain pursuant to chapter 21-35 to acquire right-of-way or other property for a trans-state transmission facility, as defined by ~~subdivision 49-41B-2(9)~~ § 49-41B-2, a property owner shall have the option to require the utility to take a fee interest in any amount of contiguous land outside the designated right-of-way ~~which he~~ that the property owner owns and elects in writing to transfer to the utility within sixty days of receipt of the notice of filing of a petition pursuant to § 21-35-1. The fee acquisition of contiguous lands as required by this section ~~shall be considered~~ is a taking for a public purpose and for use in the operation of the utility. ~~However, the utility shall be~~ The utility is required to divest itself completely of

1 all lands used for farming or capable of being used for farming within five years after the
2 date of acquisition pursuant to this section. If these lands are not divested as provided by
3 this section, ~~they shall~~ must be sold at a public sale as provided by chapter 21-47 ~~relating~~
4 ~~to foreclosure of a real property mortgage by action~~. No land more than one-half mile
5 from the center line of the power line ~~need~~ may be taken.

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

7 **49-41B-39.** All right and title in any financial security required by the commission
8 for the decommissioning of a hybrid facility, wind turbines, or solar energy facilities must
9 be controlled by the commission, in accordance with the terms of the financial security
10 agreement or instrument, until the commission by order releases the security. The
11 financial security of the person required to provide it may not be cancelled, assigned,
12 revoked, disbursed, replaced, or allowed to terminate without commission approval.

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

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

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