



2025 South Dakota Legislature

House Bill 1008

ENROLLED

AN ACT

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

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

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

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

- (1) "AC/DC conversion facility," an asynchronous AC to DC to AC tie that is directly connected to a transmission facility or a facility that connects an AC transmission facility with a DC transmission facility, or vice versa;
- (2) "Associated facilities," aqueducts, diversion dams, transmission substations, storage ponds, reservoirs, or cooling ponds;
- (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide molecules compressed in a supercritical state;
- (4) "Commission," the Public Utilities Commission;
- (5) "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 or modified, but not including activities incident to preliminary engineering or environmental studies. This term includes modifications to facilities as defined in § 49-41B-2.2;
- (6) "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 or solar energy facilities that are designed for or capable of generating one hundred megawatts or more of electricity. This term includes a hybrid facility capable of injecting one hundred megawatts or more of electricity into the transmission or distribution system;
- (7) "Facility," any AC/DC conversion 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;
- (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;
- (12) "Siting area," that area within ten miles in any direction of a proposed energy conversion facility, AC/DC conversion facility, or any other area determined by the commission to be affected by a proposed energy conversion facility;
- (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 that:
 - (a) Originates outside of this state, crosses this state, and terminates outside of this state; and
 - (b) Delivers electric power and energy of twenty-five percent or less of the design capacity of the line and facilities for use in this state;
- (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
- (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.

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 § 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 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 is a taking for a public purpose and for use in the operation of the utility. The utility is required to divest itself completely of all lands used for farming or capable of being used for farming within five years after the date of acquisition pursuant to this section. If these lands are not divested as provided by this section, they must be sold at a public sale as provided by chapter 21-47. No land more than one-half mile from the center line of the power line may be taken.

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

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

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

Any financial security provided under this chapter may not be pledged or used as security for any other obligation of the wind turbine or solar energy facilities owner, and is exempt from attachment or mesne process, from levy or sale on execution, and from any other final process issued from any court on behalf of third-party creditors of the owner of the wind turbines or solar energy facilities. Any commission decision based on

any claim made by the owner of the wind turbines or solar energy facilities for refund or return of the financial security, or for actual expenses of decommissioning, or any related agreements, may be appealed.

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

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

I certify that the attached Act originated in the:

House as Bill No. 1008

Received at this Executive Office
this ____ day of _____,

2025 at _____ M.

Chief Clerk

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this ____ day of
_____, A.D., 2025

Attest:

Chief Clerk

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2025
at _____ o'clock ____ M.

Secretary of the Senate

Secretary of State

House Bill No. 1008
File No. ____
Chapter No. ____

By _____
Asst. Secretary of State