

# State of South Dakota

NINETIETH SESSION  
LEGISLATIVE ASSEMBLY, 2015

400W0213

## HOUSE BILL NO. 1038

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

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the siting of energy  
2 facilities.

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

4 Section 1. That § 49-41B-2 be amended to read as follows:

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 ~~of two hundred fifty kilovolts or more~~, storage ponds,  
11 reservoirs, or cooling ponds;
- 12 (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide  
13 molecules compressed in a supercritical state;
- 14 (4) "Commission," the Public Utilities Commission;
- 15 (5) "Construction," any clearing of land, excavation, or other action that would affect the



1 environment of the site for each land or rights of way upon or over which a facility  
2 may be constructed or modified, but not including activities incident to preliminary  
3 engineering or environmental studies. This term includes modifications to facilities  
4 as defined in § 49-41B-2.2;

5 (6) "Energy conversion facility," any new facility, or facility expansion, designed for or  
6 capable of generation of one hundred megawatts or more of electricity, but does not  
7 include any wind energy facilities;

8 (7) "Facility," any energy conversion facility, AC/DC conversion facility, transmission  
9 facility, or wind energy facility, and associated facilities;

10 (8) "Permit," the permit issued by the commission under this chapter required for the  
11 construction and operation of a facility;

12 (9) "Person," an individual, partnership, limited liability company, joint venture, private  
13 or public corporation, association, firm, public service company, cooperative,  
14 political subdivision, municipal corporation, government agency, public utility  
15 district, or any other public or private entity, however organized;

16 (10) "Siting area," that area within ten miles in any direction of a proposed energy  
17 conversion facility, AC/DC conversion facility, or which is determined by the  
18 commission to be affected by a proposed energy conversion facility;

19 (11) "Trans-state transmission facility," an electric transmission line and its associated  
20 facilities which originates outside the State of South Dakota, crosses this state and  
21 terminates outside the State of South Dakota; and which transmission line and  
22 associated facilities delivers electric power and energy of twenty-five percent or less  
23 of the design capacity of such line and facilities for use in the State of South Dakota;

24 (12) "Utility," any person engaged in and controlling the generation or transmission of

1 electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;

2 (13) "Wind energy facility," a new facility, or facility expansion, consisting of a

3 commonly managed integrated system of towers, wind turbine generators with

4 blades, power collection systems, and electric interconnection systems, that converts

5 wind movement into electricity and that is designed for or capable of generation of

6 one hundred megawatts or more of electricity. A wind energy facility expansion

7 includes the addition of new wind turbines, designed for or capable of generating

8 twenty-five megawatts or more of electricity, which are to be managed in common

9 and integrated with existing turbines and the combined megawatt capability of the

10 existing and new turbines is one hundred megawatts or more of electricity. The

11 number of megawatts generated by a wind energy facility is determined by adding the

12 nameplate power generation capability of each wind turbine.

13 Section 2. That § 49-41B-24 be amended to read as follows:

14 49-41B-24. Within twelve months of receipt of the initial application for a permit for the

15 construction of energy conversion facilities, AC/DC conversion facilities, ~~substations of two~~

16 ~~hundred fifty kilovolts or more, transmission lines of two hundred fifty kilovolts or more, or~~

17 ~~transmission lines for coal, gas, liquid hydrocarbons, liquid hydrocarbon products, or carbon~~

18 ~~dioxide~~ or transmission facilities, the commission shall make complete findings in rendering

19 a decision regarding whether a permit should be granted, denied, or granted upon such terms,

20 conditions or modifications of the construction, operation, or maintenance as the commission

21 deems appropriate.

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

23 49-41B-25. Within six months of receipt of the initial application for a permit for the

24 construction of a wind energy facility, ~~substation, or transmission line of less than two hundred~~

1 ~~fifty kilovolts~~, the commission shall make complete findings, and render a decision, regarding  
2 whether a permit should be granted, denied, or granted upon such terms, conditions, or  
3 modifications of the construction, operation, or maintenance as the commission ~~may deem~~  
4 deems appropriate. In its decision the commission must find that the construction of the facility  
5 meets all requirements of this chapter. Notice of the commission's decision shall be given to the  
6 applicant and to parties to the hearing within ten days following the decision.

7 Section 4. That § 49-41B-26 be amended to read as follows:

8 49-41B-26. The ~~Public Utilities Commission~~ commission shall provide the applicant with  
9 a full financial accounting relating to the expenditures of the amount received pursuant to § 49-  
10 41B-12. ~~Unused~~ Except for the eight thousand dollar minimum fee required pursuant to § 49-  
11 41B-12, unused moneys shall be refunded to the applicant within thirty days of the commission's  
12 decision on ~~said~~ the application.