

State of South Dakota

NINETY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 2018

850Z0003

HOUSE COMMERCE AND ENERGY ENGROSSED NO. **HB 1234** - 2/12/2018

Introduced by: Representative Gosch and Senator Cronin

1 FOR AN ACT ENTITLED, An Act to provide for certain requirements prior to construction of
2 wind energy facilities.

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

4 Section 1. That § 49-41B-35 be amended to read:

5 49-41B-35. To implement the provisions of this chapter regarding facilities, the commission
6 shall promulgate rules pursuant to chapter 1-26. ~~Rules may be adopted by the commission to:~~

7 (1) ~~To establish~~ Establish the information requirements and procedures that every utility
8 must follow when filing plans with the commission regarding its proposed and
9 existing facilities;

10 (2) ~~To establish~~ Establish procedures for utilities to follow when filing an application for
11 a permit to construct a facility, and the information required to be included in the
12 application; and

13 (3) ~~To require~~ Require bonds, guarantees, insurance, or other requirements to provide
14 funding for the decommissioning and removal of a wind energy facility with a
15 combined megawatt capability of the facility's turbines of one hundred megawatts or



1 more of electricity, and for the restoration and reversion of the land on which the
2 facility is located to its previous use.

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

4 49-41B-2. Terms as used in this chapter mean:

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

- 1 (9) "Person," an individual, partnership, limited liability company, joint venture, private
2 or public corporation, association, firm, public service company, cooperative,
3 political subdivision, municipal corporation, government agency, public utility
4 district, or any other public or private entity, however organized;
- 5 (10) "Siting area," that area within ten miles in any direction of a proposed energy
6 conversion facility, AC/DC conversion facility, or which is determined by the
7 commission to be affected by a proposed energy conversion facility;
- 8 (11) "Trans-state transmission facility," an electric transmission line and its associated
9 facilities which originates outside the State of South Dakota, crosses this state and
10 terminates outside the State of South Dakota; and which transmission line and
11 associated facilities delivers electric power and energy of twenty-five percent or less
12 of the design capacity of such line and facilities for use in the State of South Dakota;
- 13 (12) "Utility," any person engaged in and controlling the generation or transmission of
14 electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;
- 15 (13) "Wind energy facility," a new facility, or facility expansion, consisting of a
16 commonly managed integrated system of towers, wind turbine generators with
17 blades, power collection systems, and electric interconnection systems, that converts
18 wind movement into electricity and that is designed for or capable of generation of
19 one hundred megawatts or more of electricity. A wind energy facility expansion
20 includes the addition of new wind turbines, designed for or capable of generating
21 twenty-five megawatts or more of electricity, which are to be managed in common
22 and integrated with existing turbines and the combined megawatt capability of the
23 existing and new turbines is one hundred megawatts or more of electricity. The
24 number of megawatts generated by a wind energy facility is determined by adding the

1 nameplate power generation capability of each wind turbine.

2 Section 3. That chapter 11-2 be amended by adding a NEW SECTION to read:

3 A wind energy facility not otherwise subject to § 49-41B-2 shall file with the county in
4 which the wind energy facility is located a bond, guarantee, insurance, or other requirement to
5 provide funding for the decommissioning and removal of the wind energy facility, and for the
6 restoration and reversion of the land on which the wind energy facility is located to its previous
7 use. The bond required under this section shall run in favor of, and for the benefit of, the
8 landowner whose property is hosting the wind energy facility. The form, terms, and conditions
9 of the bond required under this section shall be subject to the approval of the county in which
10 the wind energy facility is located.