

# Siting Energy Conversion & Transmission Facilities

## South Dakota Public Utilities Commission

This guide is intended to offer a simple overview of the Public Utilities Commission's process in making a decision to approve or disapprove the construction of an energy conversion or transmission facility in the state. This guide is informational and does not discuss all situations, variations and exceptions in the siting process and proceedings of the PUC. For additional information, see South Dakota Codified Law 49-41B on the Internet at [www.legis.state.sd.us/statutes](http://www.legis.state.sd.us/statutes); enter 49-41B to view the chapter.

### PUC Authority

The South Dakota Legislature gave the PUC authority to issue permits for energy conversion and transmission facilities. In considering applications, the commission's primary duty is to ensure the location, construction and operation of the facilities will produce minimal adverse effects on the environment and the citizens. The commission determines these factors based on definitions, standards and references specified in South Dakota Codified Law. In large facility cases, the commission has one year from the date of application to make a decision; six months for a small or a wind energy facility. In rendering its decision, the commission may grant the permit, deny the permit, or deny or grant the permit with terms, conditions or modifications of the construction, operation or maintenance as the commission finds appropriate and legally within its jurisdiction. The decision of the commission can be appealed to the circuit court and, ultimately, to the South Dakota Supreme Court.

The commission strives to issue a reasoned decision and conditions, where appropriate, that uphold the law and discourage a potentially expensive and lengthy appeal process.

### Applicant Responsibility

The applicant that seeks the PUC's approval must show its proposed project:

- will comply with all applicable laws and rules;
- will not pose a threat of serious injury to the environment nor to the social or economic condition of inhabitants or expected inhabitants in the siting area;
- will not substantially impair the health, safety or welfare of the inhabitants; and
- will not unduly interfere with the orderly development of the region with due consideration having been given to the views of the governing bodies of affected local units of government.

### PUC Staff Role

PUC staff members assigned to work on a siting case typically include one attorney and multiple analysts. Staff attorneys have educational and practical experience in administrative law, trial procedure and business management principles. Staff analysts have expertise in engineering, research and economics. Some of the work the staff does involves reviewing data and evidence submitted by the applicant and interveners, requesting and analyzing opinions from experts, and questioning the parties. The staff considers the information relative to state laws and rules and presents recommendations to the Public Utilities Commissioners.

### Public Involvement

South Dakotans as well as anyone else with an interest in a siting case have a variety of ways to stay informed and involved.

- **Review the electronic docket.** A docket is the continually updated collection of documents filed with the commission for a particular case. Dockets are accessible under the Commission Actions tab on the PUC Web site, [www.puc.sd.gov](http://www.puc.sd.gov). Dockets are labeled to correspond with their type and filing date. Siting dockets are typically categorized as Electric or Hydrocarbon Pipeline. For example, Basin Electric's Deer Creek Station Combined-Cycle Natural Gas Energy Conversion Facility docket is EL09-015; EL for electric, 09 for 2009 and 015 to indicate it was the 15th electric docket filed with the commission in 2009.
- **Attend a public input hearing.** The PUC will hold a public input hearing on a siting case, with 30 days notice, as physically close as practical to the proposed facility site. At the hearing, the applicant describes its project and the public may ask questions and offer comment.

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## Public Involvement continued

- **Submit comments.** Members of the public are encouraged to relay written comments or questions about a siting case to the PUC. These informal public comments are filed in the docket and reviewed and considered by the PUC commissioners and staff. Public comments should include the docket number or siting project name, commenter's full name and mailing address as well as e-mail address and phone number, if available. These comments should be sent to [puc@state.sd.us](mailto:puc@state.sd.us) or PUC, 500 E. Capitol Ave., Pierre, SD 57501.
- **Become an intervener.** Individuals who wish to be formal parties in a siting case may apply to the commission for intervener status. Intervention deadline is clearly indicated within the docket. Intervention is appropriate for people who intend to actively participate in the case through legal motions, discovery (requests for facts or documents), the written preparation and presentation of actual evidence, and in-person participation in a formal hearing. Interveners are legally obligated to respond to discovery from other parties and to submit to cross-examination at a formal hearing. Individuals seeking only to follow the progress of a siting case or to offer comments for the PUC's consideration need not become interveners.

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