

1.1 A bill for an act

1.2 relating to energy; modifying provisions relating to power transmission lines,  
1.3 renewable energy obligations, and related activities and costs; amending  
1.4 Minnesota Statutes 2006, sections 216B.16, subdivision 7b; 216B.1645,  
1.5 subdivisions 1, 2; 216B.2425, subdivisions 2, 3; 216B.243, subdivision 8;  
1.6 Minnesota Statutes 2007 Supplement, section 216B.1645, subdivision 2a.

1.7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8 Section 1. Minnesota Statutes 2006, section 216B.16, subdivision 7b, is amended to  
1.9 read:

1.10 Subd. 7b. **Transmission cost adjustment.** (a) Notwithstanding any other provision  
1.11 of this chapter, the commission may approve a tariff mechanism for the automatic  
1.12 annual adjustment of charges for the Minnesota jurisdictional costs of new transmission  
1.13 facilities that have been separately filed and reviewed and approved by the commission  
1.14 under section 216B.243 or are certified as a priority project or deemed to be a priority  
1.15 transmission project under section 216B.2425.

1.16 (b) Upon filing by a public utility or utilities providing transmission service, the  
1.17 commission may approve, reject, or modify, after notice and comment, a tariff that:

1.18 (1) allows the utility to recover on a timely basis the costs net of revenues of  
1.19 facilities approved under section 216B.243 or certified or deemed to be certified under  
1.20 section 216B.2425;

1.21 (2) allows the utility to recover on a timely basis the charges incurred by the utility  
1.22 for network integration transmission facilities owned by other transmission owners;

1.23 (3) allows a return on investment at the level approved in the utility's last general  
1.24 rate case, unless a different return is found to be consistent with the public interest;

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2.1 ~~(3)~~ (4) provides a current return on construction work in progress, provided that  
2.2 recovery from Minnesota retail customers for the allowance for funds used during  
2.3 construction is not sought through any other mechanism;

2.4 ~~(4)~~ (5) allows for recovery of other expenses if shown to promote a least-cost project  
2.5 option or is otherwise in the public interest;

2.6 ~~(5)~~ (6) allocates project costs appropriately between wholesale and retail customers;

2.7 ~~(6)~~ (7) provides a mechanism for recovery above cost, if necessary to improve the  
2.8 overall economics of the project or projects or is otherwise in the public interest; and

2.9 ~~(7)~~ (8) terminates recovery once costs have been fully recovered or have otherwise  
2.10 been reflected in the utility's general rates.

2.11 (c) A public utility may file annual rate adjustments to be applied to customer bills  
2.12 paid under the tariff approved in paragraph (b). In its filing, the public utility shall provide:

2.13 (1) a description of and context for the facilities included for recovery;

2.14 (2) a schedule for implementation of applicable projects;

2.15 (3) the utility's costs for these projects;

2.16 (4) a description of the utility's efforts to ensure the lowest costs to ratepayers for  
2.17 the project; and

2.18 (5) calculations to establish that the rate adjustment is consistent with the terms  
2.19 of the tariff established in paragraph (b).

2.20 (d) Upon receiving a filing for a rate adjustment pursuant to the tariff established in  
2.21 paragraph (b), the commission shall approve the annual rate adjustments provided that,  
2.22 after notice and comment, the costs included for recovery through the tariff were or are  
2.23 expected to be prudently incurred and achieve transmission system improvements at the  
2.24 lowest feasible and prudent cost to ratepayers.

2.25 Sec. 2. Minnesota Statutes 2006, section 216B.1645, subdivision 1, is amended to read:

2.26 Subdivision 1. **Commission authority.** Upon the petition of a public utility, the  
2.27 Public Utilities Commission shall approve or disapprove power purchase contracts,  
2.28 investments, or expenditures entered into or made by the utility to satisfy the wind and  
2.29 biomass mandates contained in sections 216B.169, 216B.2423, and 216B.2424, and  
2.30 to satisfy the renewable energy ~~objectives~~ obligations set forth in section 216B.1691,  
2.31 including reasonable investments and expenditures made to:

2.32 (1) transmit the electricity generated from sources developed under those sections  
2.33 that is ultimately used to provide service to the utility's retail customers, including  
2.34 studies necessary to identify new transmission facilities needed to transmit electricity to  
2.35 Minnesota retail customers from generating facilities constructed to satisfy the renewable

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3.1 energy ~~objectives~~ obligations, provided that the costs of the studies have not been  
3.2 recovered previously under existing tariffs and the utility has filed an application for a  
3.3 certificate of need or for certification as a priority project under section 216B.2425 for the  
3.4 new transmission facilities identified in the studies;

3.5 (2) provide ancillary services to generation facilities that satisfy the renewable  
3.6 energy objectives and standards, including, but not limited to, storage facilities and backup  
3.7 peaking generation facilities that contribute to the reliability, efficiency, or economics of  
3.8 the renewable facilities; or

3.9 ~~(2)~~ (3) develop renewable energy sources from the account required in section  
3.10 116C.779.

3.11 Sec. 3. Minnesota Statutes 2006, section 216B.1645, subdivision 2, is amended to read:

3.12 Subd. 2. **Cost recovery.** The expenses incurred by the utility over the duration of  
3.13 the approved contract or useful life of the investment and expenditures made pursuant  
3.14 to section 116C.779 shall be recoverable from the ratepayers of the utility, to the extent  
3.15 they are not offset by utility revenues attributable to the contracts, investments, or  
3.16 expenditures. Upon petition by a public utility, the commission shall approve or approve  
3.17 as modified a rate schedule providing for the automatic adjustment of charges to recover  
3.18 the expenses or costs approved by the commission under subdivision 1, which, in the case  
3.19 of transmission expenditures, are limited to the portion of actual transmission costs that are  
3.20 directly allocable to the need to transmit power from the renewable sources of energy. The  
3.21 commission may not approve recovery of the costs for that portion of the power generated  
3.22 from sources governed by this section that the utility sells into the wholesale market.

3.23 Sec. 4. Minnesota Statutes 2007 Supplement, section 216B.1645, subdivision 2a,  
3.24 is amended to read:

3.25 Subd. 2a. **Cost recovery for owned renewable facilities.** (a) A utility may petition  
3.26 the commission to approve a rate schedule that provides for the automatic adjustment of  
3.27 charges to recover prudently incurred investments, expenses, or costs associated with  
3.28 facilities constructed, owned, or operated by a utility to satisfy the requirements of section  
3.29 216B.1691, ~~provided those facilities were previously approved by the commission under~~  
3.30 ~~section 216B.2422 or 216B.243~~. The commission may approve, or approve as modified, a  
3.31 rate schedule that:

3.32 (1) allows a utility to recover directly from customers on a timely basis the costs of  
3.33 qualifying renewable energy projects, including:

3.34 (i) return on investment;

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- 4.1 (ii) depreciation;
- 4.2 (iii) ongoing operation and maintenance costs;
- 4.3 (iv) taxes; and
- 4.4 (v) costs of transmission and other ancillary expenses directly allocable to
- 4.5 transmitting electricity generated from a project meeting the specifications of this
- 4.6 paragraph;

4.7 (2) provides a current return on construction work in progress, provided that recovery

4.8 of these costs from Minnesota ratepayers is not sought through any other mechanism;

4.9 (3) allows recovery of other expenses incurred that are directly related to a renewable

4.10 energy project, including but not limited to expenses for energy storage or backup

4.11 peaking energy, provided that the utility demonstrates to the commission's satisfaction

4.12 that the expenses improve project economics, ensure project implementation, or facilitate

4.13 coordination with the development of transmission necessary to transport energy produced

4.14 by the project to market;

4.15 (4) allocates recoverable costs appropriately between wholesale and retail customers;

4.16 (5) terminates recovery when costs have been fully recovered or have otherwise

4.17 been reflected in a utility's rates.

4.18 (b) A petition filed under this subdivision must include:

4.19 (1) a description of the facilities for which costs are to be recovered;

4.20 (2) an implementation schedule for the facilities;

4.21 (3) the utility's costs for the facilities;

4.22 (4) a description of the utility's efforts to ensure that costs of the facilities are

4.23 reasonable and were prudently incurred; and

4.24 (5) a description of the benefits of the project in promoting the development of

4.25 renewable energy in a manner consistent with this chapter.

4.26 Sec. 5. Minnesota Statutes 2006, section 216B.2425, subdivision 2, is amended to read:

4.27 Subd. 2. **List development; transmission projects report.** (a) By November

4.28 1 of each odd-numbered year, a transmission projects report must be submitted to the

4.29 commission by each utility, organization, or company that:

4.30 (1) is a public utility, a municipal utility, a cooperative electric association, the

4.31 generation and transmission organization that serves each utility or association, or a

4.32 transmission company; and

4.33 (2) owns or operates electric transmission lines in Minnesota.

4.34 (b) The report may be submitted jointly or individually to the commission.

4.35 (c) The report must:

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5.1 (1) list specific present and reasonably foreseeable future inadequacies in the  
5.2 transmission system in Minnesota;

5.3 (2) identify alternative means of addressing each inadequacy listed, including, at  
5.4 the option of the utility, transmission facilities upgrades for which the utility will seek  
5.5 certification, but which are not large energy facilities under section 216B.2421;

5.6 (3) identify general economic, environmental, and social issues associated with  
5.7 each alternative; and

5.8 (4) provide a summary of public input related to the list of inadequacies and the role  
5.9 of local government officials and other interested persons in assisting to develop the list  
5.10 and analyze alternatives.

5.11 (d) To meet the requirements of this subdivision, reporting parties may rely on  
5.12 available information and analysis developed by a regional transmission organization  
5.13 or any subgroup of a regional transmission organization and may develop and include  
5.14 additional information as necessary.

5.15 Sec. 6. Minnesota Statutes 2006, section 216B.2425, subdivision 3, is amended to read:

5.16 Subd. 3. **Commission approval.** By June 1 of each even-numbered year, the  
5.17 commission shall adopt a state transmission project list and shall certify, certify as  
5.18 modified, or deny certification of the projects proposed under subdivision 2. The  
5.19 commission may only certify a project that the commission finds is:

5.20 (a) a high-voltage transmission line that is a large energy facility as defined in  
5.21 section 216B.2421, subdivision 2, that the commission finds is:

5.22 (1) necessary to maintain or enhance the reliability of electric service to Minnesota  
5.23 consumers;

5.24 (2) needed, applying the criteria in section 216B.243, subdivision 3; and

5.25 (3) in the public interest, taking into account electric energy system needs and  
5.26 economic, environmental, and social interests affected by the project;

5.27 (b) a transmission line that is not a large energy facility under section 216B.2421,  
5.28 but which was described in an application filed under section 216B.243 and is necessary  
5.29 to support a high-voltage transmission line that is certified under this section; or

5.30 (c) a transmission line that is not a large energy facility under section 216B.2421  
5.31 that the commission finds is:

5.32 (1) necessary to maintain or enhance the reliability of electric service to Minnesota  
5.33 consumers; and

5.34 (2) in the public interest, taking into account electric energy systems needs and  
5.35 economic, environmental, and social interests affected by the project.

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6.1 Sec. 7. Minnesota Statutes 2006, section 216B.243, subdivision 8, is amended to read:

6.2 Subd. 8. **Exemptions.** This section does not apply to:

6.3 (1) cogeneration or small power production facilities as defined in the Federal Power  
6.4 Act, United States Code, title 16, section 796, paragraph (17), subparagraph (A), and  
6.5 paragraph (18), subparagraph (A), and having a combined capacity at a single site of less  
6.6 than 80,000 kilowatts; plants or facilities for the production of ethanol or fuel alcohol; or  
6.7 any case where the commission has determined after being advised by the attorney general  
6.8 that its application has been preempted by federal law;

6.9 (2) a high-voltage transmission line proposed primarily to distribute electricity to  
6.10 serve the demand of a single customer at a single location, unless the applicant opts to  
6.11 request that the commission determine need under this section or section 216B.2425;

6.12 (3) the upgrade to a higher voltage of an existing transmission line that serves  
6.13 the demand of a single customer that primarily uses existing rights-of-way, unless the  
6.14 applicant opts to request that the commission determine need under this section or section  
6.15 216B.2425;

6.16 (4) a high-voltage transmission line of one mile or less required to connect a new or  
6.17 upgraded substation to an existing, new, or upgraded high-voltage transmission line;

6.18 (5) conversion of the fuel source of an existing electric generating plant to using  
6.19 natural gas;

6.20 (6) the modification of an existing electric generating plant to increase efficiency,  
6.21 as long as the capacity of the plant is not increased more than ten percent or more than  
6.22 100 megawatts, whichever is greater; or

6.23 (7) a large energy facility that ~~(i) generates electricity from wind energy conversion~~  
6.24 ~~systems, (ii) will~~ an eligible energy technology, as that term is defined under section  
6.25 216B.1691, subdivision 1, to serve retail customers in Minnesota, (iii) is specifically  
6.26 intended to be and is used to meet the renewable energy objective obligations under section  
6.27 216B.1691 ~~or addresses a resource need identified in a current commission-approved or~~  
6.28 ~~commission-reviewed resource plan under section 216B.2422, and (iv) derives at least ten~~  
6.29 ~~percent of the total nameplate capacity of the proposed project from one or more C-BED~~  
6.30 ~~projects, as defined under section 216B.1612, subdivision 2, paragraph (f).~~