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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 1985

03/02/2017 Authored by Davids and Newberger
The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance
03/14/2017 Adoption of Report: Re-referred to the Committee on Taxes

A bill for an act

1.2 relating to taxation; property; modifying the taxation of electric generation and
1.3 distribution equipment and machinery; amending Minnesota Statutes 2016, sections
1.4 216B.1621, subdivision 2; 216B.164, subdivision 2a; 272.02, subdivision 10;
1.5 273.11, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters
1.6 273; 477A; repealing Minnesota Statutes 2016, sections 272.02, subdivisions 29,
1.7 33, 44, 45, 47, 52, 54, 55, 56, 68, 70, 71, 84, 89, 92, 93, 96, 99; 272.0211.

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

Section 1. Minnesota Statutes 2016, section 216B.1621, subdivision 2, is amended to read:

Subd. 2. Commission approval. (a) The commission shall approve an agreement under this section upon finding that:

(1) the proposed electric service power generation facility could reasonably be expected to qualify for a market value exclusion under section 272.0211;

(2) the public utility has a contractual option to purchase electric power from the proposed facility; and

(3) (2) the public utility can use the output from the proposed facility to meet its future need for power as demonstrated in the most recent resource plan filed with and approved by the commission under section 216B.2422.

(b) Sections 216B.03, 216B.05, 216B.06, 216B.07, 216B.16, 216B.162, and 216B.23 do not apply to an agreement under this section.

EFFECTIVE DATE. This section is effective for assessment year 2018 and thereafter.

2.1 Sec. 2. Minnesota Statutes 2016, section 216B.164, subdivision 2a, is amended to read:

2.2 Subd. 2a. **Definitions.** (a) For the purposes of this section, the following terms have the
2.3 meanings given them.

2.4 (b) "Aggregated meter" means a meter located on the premises of a customer's owned
2.5 or leased property that is contiguous with property containing the customer's designated
2.6 meter.

2.7 (c) "Capacity" means the number of megawatts alternating current (AC) at the point of
2.8 interconnection between a distributed generation facility and a utility's electric system.

2.9 (d) "Cogeneration" means a combined process whereby electrical and useful thermal
2.10 energy are produced simultaneously.

2.11 (e) "Contiguous property" means property owned or leased by the customer sharing a
2.12 common border, without regard to interruptions in contiguity caused by easements, public
2.13 thoroughfares, transportation rights-of-way, or utility rights-of-way.

2.14 (f) "Customer" means the person who is named on the utility electric bill for the premises.

2.15 (g) "Designated meter" means a meter that is physically attached to the customer's facility
2.16 that the customer-generator designates as the first meter to which net metered credits are
2.17 to be applied as the primary meter for billing purposes when the customer is serviced by
2.18 more than one meter.

2.19 (h) "Distributed generation" means a facility that:

2.20 (1) has a capacity of ten megawatts or less;

2.21 (2) is interconnected with a utility's distribution system, over which the commission has
2.22 jurisdiction; and

2.23 (3) generates electricity from natural gas, renewable fuel, or a similarly clean fuel, and
2.24 may include waste heat, cogeneration, or fuel cell technology.

2.25 (i) "High-efficiency distributed generation" means a distributed energy facility that has
2.26 a minimum efficiency of 40 percent, as calculated under Minnesota Statutes 2016, section
2.27 272.0211, subdivision 1.

2.28 (j) "Net metered facility" means an electric generation facility constructed for the purpose
2.29 of offsetting energy use through the use of renewable energy or high-efficiency distributed
2.30 generation sources.

2.31 (k) "Renewable energy" has the meaning given in section 216B.2411, subdivision 2.

3.1 (l) "Standby charge" means a charge imposed by an electric utility upon a distributed
 3.2 generation facility for the recovery of costs for the provision of standby services, as provided
 3.3 for in a utility's tariffs approved by the commission, necessary to make electricity service
 3.4 available to the distributed generation facility.

3.5 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

3.6 Sec. 3. Minnesota Statutes 2016, section 272.02, subdivision 10, is amended to read:

3.7 Subd. 10. **Personal property used for pollution control.** Personal property used
 3.8 primarily for the abatement and control of air, water, or land pollution is exempt to the
 3.9 extent that it is so used, and real property is exempt if it is used primarily for abatement and
 3.10 control of air, water, or land pollution as part of an agricultural operation, as a part of a
 3.11 centralized treatment and recovery facility operating under a permit issued by the Minnesota
 3.12 Pollution Control Agency pursuant to chapters 115 and 116 and Minnesota Rules, parts
 3.13 7001.0500 to 7001.0730, and 7045.0020 to 7045.1030, as a wastewater treatment facility
 3.14 and for the treatment, recovery, and stabilization of metals, oils, chemicals, water, sludges,
 3.15 or inorganic materials from hazardous industrial wastes, ~~or as part of an electric generation~~
 3.16 ~~system.~~ For purposes of this subdivision, personal property includes ponderous machinery
 3.17 and equipment used in a business or production activity that at common law is considered
 3.18 real property. The real or personal property of an electric generation, transmission,
 3.19 distribution, and substation system is not eligible for an exemption under this section.

3.20 Any taxpayer requesting exemption of all or a portion of any real property or any
 3.21 equipment or device, or part thereof, operated primarily for the control or abatement of air,
 3.22 water, or land pollution shall file an application with the commissioner of revenue. ~~The~~
 3.23 ~~commissioner shall develop an electronic means to notify interested parties when electric~~
 3.24 ~~power generation facilities have filed an application.~~ The Minnesota Pollution Control
 3.25 Agency shall upon request of the commissioner furnish information and advice to the
 3.26 commissioner.

3.27 The information and advice furnished by the Minnesota Pollution Control Agency must
 3.28 include statements as to whether the equipment, device, or real property meets a standard,
 3.29 rule, criteria, guideline, policy, or order of the Minnesota Pollution Control Agency, and
 3.30 whether the equipment, device, or real property is installed or operated in accordance with
 3.31 it. On determining that property qualifies for exemption, the commissioner shall issue an
 3.32 order exempting the property from taxation. The commissioner shall develop an electronic
 3.33 means to notify interested parties when the commissioner has issued an order exempting
 3.34 property from taxation under this subdivision. The equipment, device, or real property shall

4.1 continue to be exempt from taxation as long as the order issued by the commissioner remains
4.2 in effect.

4.3 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

4.4 Sec. 4. Minnesota Statutes 2016, section 273.11, subdivision 1, is amended to read:

4.5 Subdivision 1. **Generally.** Except as provided in this section or ~~section~~ sections 273.129
4.6 and 273.17, subdivision 1, all property shall be valued at its market value. The market value
4.7 as determined pursuant to this section shall be stated such that any amount under \$100 is
4.8 rounded up to \$100 and any amount exceeding \$100 shall be rounded to the nearest \$100.
4.9 In estimating and determining such value, the assessor shall not adopt a lower or different
4.10 standard of value because the same is to serve as a basis of taxation, nor shall the assessor
4.11 adopt as a criterion of value the price for which such property would sell at a forced sale,
4.12 or in the aggregate with all the property in the town or district; but the assessor shall value
4.13 each article or description of property by itself, and at such sum or price as the assessor
4.14 believes the same to be fairly worth in money. The assessor shall take into account the effect
4.15 on the market value of property of environmental factors in the vicinity of the property. In
4.16 assessing any tract or lot of real property, the value of the land, exclusive of structures and
4.17 improvements, shall be determined, and also the value of all structures and improvements
4.18 thereon, and the aggregate value of the property, including all structures and improvements,
4.19 excluding the value of crops growing upon cultivated land. In valuing real property upon
4.20 which there is a mine or quarry, it shall be valued at such price as such property, including
4.21 the mine or quarry, would sell for at a fair, voluntary sale, for cash, if the material being
4.22 mined or quarried is not subject to taxation under section 298.015 and the mine or quarry
4.23 is not exempt from the general property tax under section 298.25. In valuing real property
4.24 which is vacant, platted property shall be assessed as provided in subdivisions 14a and 14c.
4.25 All property, or the use thereof, which is taxable under section 272.01, subdivision 2, or
4.26 273.19, shall be valued at the market value of such property and not at the value of a leasehold
4.27 estate in such property, or at some lesser value than its market value.

4.28 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

4.29 Sec. 5. **[273.129] ELECTRIC GENERATION MACHINERY, TRANSMISSION,**
4.30 **DISTRIBUTION, AND SUBSTATION; VALUATION.**

4.31 Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have
4.32 the meanings given.

5.1 (b) "Biomass generating system" means a device used to produce energy by the direct
5.2 combustion of carbon-based organisms.

5.3 (c) "Coal generating system" means a device whose primary purpose is the production
5.4 of electricity derived by the direct combustion of coal to produce steam.

5.5 (d) "Electric distribution line" means an exterior or underground line whose functional
5.6 character is not identified as transmission in annual utility filings to federal agencies that
5.7 regulate the interstate transmission of electricity.

5.8 (e) "Electric generation system" means all personal property and operating real property
5.9 used for the purpose of generating electricity, excluding:

5.10 (1) solar energy generating systems; and

5.11 (2) wind energy conversion systems.

5.12 (f) "Electric substation" means property whose functional character is identified as
5.13 transmission in annual utility filings to federal agencies that regulate the interstate
5.14 transmission of electricity. Electric substation capacity shall be determined by the property's
5.15 secondary voltage.

5.16 (g) "Electric system component" means an electric generation system, an electric
5.17 distribution line, an electric transmission line, or an electric substation.

5.18 (h) "Electric transmission line" means an exterior or underground line whose functional
5.19 character is identified as transmission in annual utility filings to federal agencies that regulate
5.20 the interstate transmission of electricity.

5.21 (i) "Hydroelectric generating system" means a device whose primary purpose is the
5.22 production of electricity derived from flowing water.

5.23 (j) "Nameplate capacity" means the maximum rated output of a generator, prime mover,
5.24 or other electric power production equipment under specific conditions designated by the
5.25 manufacturer.

5.26 (k) "Natural gas generating system" means a device whose primary purpose is the
5.27 production of electricity derived from natural gas.

5.28 (l) "Nuclear fuel generating system" means a device whose primary purpose is the
5.29 production of electricity generated by the use of the thermal energy released from the fission
5.30 of nuclear fuel in a reactor.

5.31 (m) "Oil generating system" means a device whose primary purpose is the production
5.32 of electricity derived by direct combustion of oil to produce steam.

6.1 (n) "Primary fuel source" means the fuel source that is dominantly used by a facility in
6.2 the production of electricity.

6.3 (o) "Spent fuel" means fuel that has been irradiated in a nuclear reactor to the point
6.4 where it is no longer useful in sustaining a nuclear reaction.

6.5 Subd. 2. **Valuation rates.** (a) The electric generation capacity valuation is the nameplate
6.6 capacity in kilowatts multiplied by:

6.7 (1) \$0 for hydroelectric generating systems;

6.8 (2) \$5 for machinery used to generate electricity from biomass, natural gas, or nuclear
6.9 fuel generation systems; and

6.10 (3) \$10 for machinery used to generate electricity from a coal or oil generation system
6.11 or any other fossil fuel.

6.12 (b) The electric production valuation is the production in kilowatt hours multiplied by:

6.13 (1) \$0.05 for hydroelectric generating systems;

6.14 (2) \$0.0525 for machinery used to generate electricity from biomass, natural gas, or
6.15 nuclear fuel generation systems; and

6.16 (3) \$0.055 for machinery used to generate electricity from a coal or oil generation system
6.17 or any other fossil fuel.

6.18 (c) The spent fuel valuation is the tons, or fractions thereof, of spent fuel stored at a
6.19 nuclear generating facility, multiplied by \$75,000. The value of spent fuel shall be
6.20 apportioned to the jurisdiction where the spent fuel is stored.

6.21 (d) The electric substation valuation rate is \$23,790 times the capacity in megavolt
6.22 amperes (MVA) of all electric substation transformers.

6.23 (e) The electric transmission line valuation rate is \$778 per mile.

6.24 (f) The electric distribution line valuation rate is \$1,287 per customer.

6.25 (g) The rates provided in paragraph (b) shall be adjusted annually by an amount equal
6.26 to the percentage change, if any, in the gross domestic product for nonresidential investment
6.27 for the current year as compared to the previous year, as reported on Table 1.1.1 by the
6.28 United States Bureau of Economic Analysis. A rate change pursuant to this section shall
6.29 be effective for the following taxes payable year.

6.30 Subd. 3. **Electric system valuation.** (a) The commissioner shall annually calculate the
6.31 value of each electric system component under this section, excluding any components

7.1 owned or operated by a municipal utility, a rural electric distribution cooperative, or an
7.2 electric generation system wholly owned by a municipal power agency. Electric systems
7.3 owned or operated by a generation and transmission cooperative may permanently elect not
7.4 to be valued under this section by notifying the commissioner of revenue prior to July 1,
7.5 2017.

7.6 (b) An electric generating system that has permanently closed, or that has a nameplate
7.7 capacity of one megawatt or less as determined under subdivision 4, shall have a valuation
7.8 of \$0 under this section. The commissioner shall calculate the value of each generation
7.9 facility using the applicable capacity and generation rates for each generator based on the
7.10 electric generation system's primary fuel source.

7.11 (c) The valuation for an electric generation system is equal to the sum of:

7.12 (1) its nameplate capacity multiplied by its generation capacity valuation rate;

7.13 (2) the average of its electric energy production as reported to the commissioner of
7.14 revenue for the immediately preceding five years, multiplied by its production valuation
7.15 rate; and

7.16 (3) its spent fuel valuation.

7.17 (d) For electric generators that have been operational for less than the immediately
7.18 preceding five years, the average of the electric generator's electric energy production shall
7.19 be the average of its electric energy production for the time period since the facility
7.20 commenced operation.

7.21 Subd. 4. **Electric generating systems; size.** The total capacity of an electric generating
7.22 system pursuant to this section shall be determined by combining all generators of each fuel
7.23 type within each facility, based on the information reported to the commissioner of revenue
7.24 as required under subdivision 5.

7.25 Subd. 5. **Generating systems; reports.** (a) An owner of an electric generating system,
7.26 transmission lines, distribution lines, or electric substations, subject to taxation under this
7.27 section must file a report with the commissioner of revenue annually on or before March
7.28 31 detailing, if applicable:

7.29 (1) the amount of electricity produced by each generator in the previous calendar year
7.30 as reported to the United States Energy Information Administration;

7.31 (2) the location, length, and capacity of all transmission lines; and

8.1 (3) the location and capacity of all electric transmission substations, including individual
8.2 transformers.

8.3 (b) The commissioner shall prescribe the form of the report and the report must contain
8.4 the information required by the commissioner to determine the tax base under this section.
8.5 The commissioner may, for good cause, extend the time for filing the report as required
8.6 under this section. The extension may not exceed 15 days.

8.7 (c) If an owner of an electric generating system fails to file the report by the due date,
8.8 the commissioner of revenue may determine the tax base upon the sum of:

8.9 (1) the nameplate capacity of the system's generators multiplied by the generation capacity
8.10 rate for the generator's primary fuel source;

8.11 (2) a production of 100 percent of annual capacity of the facility multiplied by the
8.12 generation rate for the primary fuel source; and

8.13 (3) the greater of the spent fuel tax base from the prior year, or the amount as reported
8.14 by the United States Energy Information Administration.

8.15 (d) If an owner of an electric transmission or distribution line, or an electric substation,
8.16 fails to file the report by the due date, the commissioner of revenue shall determine the
8.17 valuation based upon the prior year's valuation.

8.18 Subd. 6. **Notification to counties.** The commissioner of revenue shall annually on or
8.19 before March 31 notify the auditor of each county of the valuation by taxing jurisdiction of
8.20 each electric generating, transmission, distribution, and substation system operating in the
8.21 county.

8.22 Subd. 7. **Omitted or undervalued property.** If an electric generation, transmission,
8.23 distribution, and substation system is omitted in the determination of the valuation and
8.24 thereby escapes taxation, or if the system is discovered to have been undervalued, or, if the
8.25 capacity or production has been underreported, the commissioner of revenue shall determine
8.26 the valuation for the year or years omitted. The commissioner of revenue shall, on or before
8.27 March 31, notify the county auditor of the county where the electric generation transmission,
8.28 distribution, and substation system is located of the omitted or underreported valuation, and
8.29 the county auditor shall extend against the owner arrearage of taxes properly due. The
8.30 authority of the commissioner of revenue to determine valuation under this section shall be
8.31 limited to the immediately preceding three years.

8.32 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

9.1 Sec. 6. [477A.23] ELECTRIC GENERATION, TRANSMISSION, DISTRIBUTION,
 9.2 AND SUBSTATION REPLACEMENT AID.

9.3 Subdivision 1. Definitions. (a) For purposes of this section, the definitions found in
 9.4 section 273.129, subdivision 1, apply. In addition, the following term has the meaning given.

9.5 (b) "Local unit" means a home rule charter or statutory city, county, or town.

9.6 Subd. 2. Aid eligibility; payment. (a) For aids payable in 2019 only, replacement aid
 9.7 under this section equals:

9.8 (1) the net tax capacity of all personal property of all electric generation, transmission
 9.9 and distribution lines, and substation systems as determined for assessment year 2017
 9.10 multiplied by the payable 2018 local tax rate; minus

9.11 (2) the net tax capacity in 2018 of all electric generation, transmission or distribution
 9.12 lines, and substation systems as determined under section 273.129, multiplied by the payable
 9.13 2019 local tax rate.

9.14 (b) Eligibility under this subdivision also includes all sections of electric transmission
 9.15 lines under construction but not completed upon final enactment. The aid payment may not
 9.16 be less than zero.

9.17 (c) For aids payable in 2020 and thereafter, aid shall equal the difference between the
 9.18 prior assessment year's tax capacity multiplied by the current year local tax rate and the tax
 9.19 capacity for the assessment two years prior multiplied by the prior year local tax rate, plus
 9.20 the prior year's aid, if any, under this section, if the tax capacity of electric generation,
 9.21 transmission, distribution, and substation systems is:

9.22 (1) reduced by more than ten percent as compared to the previous year; and

9.23 (2) the reduction is more than five percent of a local unit's total tax base.

9.24 (d) If paragraph (c) does not apply, aid shall be equal to:

9.25 (1) 95 percent of the prior year's aid; minus

9.26 (2) the difference between the prior assessment year multiplied by the current year local
 9.27 tax rate and the assessment two years prior multiplied by the prior year local tax rate for
 9.28 the electric generation, transmission, distribution, and substation tax base.

9.29 (e) Aid shall cease if aid is certified to be less than five percent of the net tax capacity
 9.30 for the current assessment year multiplied by the local tax rate.

10.1 (f) The commissioner shall compute the amount of replacement aid payable to each local
10.2 unit under this section. Aid payment amounts under paragraph (a) must be certified by
10.3 September 1, 2019. Aid payments computed under paragraphs (b) and (c) must be certified
10.4 on or before August 1 of each year, for aids payable in the following year for each recipient
10.5 local unit. The commissioner shall pay replacement aid to local units annually at the time
10.6 provided for the second installment of local government aid under section 477A.015.

10.7 (g) The commissioner may require counties and owners of electric generation facilities,
10.8 transmission and distribution lines, and substations to provide any documentation necessary
10.9 to administer this section.

10.10 Subd. 3. **Appropriation.** An amount sufficient to pay transition aid under this section
10.11 is annually appropriated to the commissioner of revenue from the general fund.

10.12 **EFFECTIVE DATE.** This section is effective for aids payable in 2019 and thereafter.

10.13 Sec. 7. **COMMISSIONER NOTIFICATION.**

10.14 The commissioner of revenue must annually notify the revisor of statutes which
10.15 subdivisions or sections have met the condition for repeal under section 8, paragraph (b).

10.16 Sec. 8. **REPEALER.**

10.17 (a) Minnesota Statutes 2016, section 272.0211, is repealed.

10.18 (b) Minnesota Statutes 2016, section 272.02, subdivisions 29, 33, 44, 45, 47, 52, 54, 55,
10.19 56, 68, 70, 71, 84, 89, 92, 93, 96, and 99, are each repealed upon the expiration of the
10.20 purchase power agreement in effect for the facility defined in the subdivision as of June 30,
10.21 2017.

10.22 **EFFECTIVE DATE.** This section is effective for assessment year 2018 and thereafter.

272.02 EXEMPT PROPERTY.

Subd. 29. **Cogeneration systems; certain property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a facility containing a cogeneration system as described in section 216B.166, subdivision 2, paragraph (a), is exempt if the cogeneration system has met the following criteria: (i) the system utilizes natural gas as a primary fuel and the cogenerated steam initially replaces steam generated from existing thermal boilers utilizing coal; (ii) the facility developer is selected as a result of a procurement process ordered by the Public Utilities Commission; and (iii) construction of the facility is commenced after July 1, 1994, and before July 1, 1997.

Subd. 33. **Electric generation facility personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (i) not be owned by a public utility as defined in section 216B.02, subdivision 4;
- (ii) utilize natural gas as a primary fuel;
- (iii) be located within 20 miles of the intersection of an existing 42-inch (outside diameter) natural gas pipeline and a 345-kilovolt high-voltage electric transmission line; and
- (iv) be designed to provide peaking, emergency backup, or contingency services, and have received a certificate of need pursuant to section 216B.243 demonstrating demand for its capacity. Construction of the facility must be commenced after July 1, 1999, and before July 1, 2003. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 44. **Electric generation facility personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 250 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be located within 20 miles of parallel existing 16-inch and 12-inch (outside diameter) natural gas pipelines and a 345-kilovolt high-voltage electric transmission line; and
- (3) be designed to provide peaking, emergency backup, or contingency services, and have received a certificate of need under section 216B.243 demonstrating demand for its capacity.

Construction of the facility must be commenced after January 1, 2000, and before January 1, 2004. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 45. **Biomass electrical generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) be designed to utilize biomass as established in section 216B.2424 as a primary fuel source; and
- (2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2000, and before December 31, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

Subd. 47. **Poultry litter biomass generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) be designed to utilize poultry litter as a primary fuel source; and
- (2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the Public Utilities Commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, 2003, and before December 31, 2005. Property eligible for this exemption does not include electric transmission

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lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 52. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility of more than 40 megawatts and less than 50 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be located within two miles of parallel existing 36-inch natural gas pipelines and an existing 115-kilovolt high-voltage electric transmission line;
- (3) be designed to provide peaking, emergency backup, or contingency services; and
- (4) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422.

Construction of the facility must be commenced after January 1, 2001, and before January 1, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 54. **Small biomass electric generation facility; personal property.** (a) Subject to paragraph (b), notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction the facility must:

- (1) have a generation capacity of less than 25 megawatts;
- (2) provide process heating needs in addition to electrical generation; and
- (3) utilize agricultural by-products from the malting process and other biomass fuels as its primary fuel source.

Construction of the facility must be commenced after January 1, 2002, and before January 1, 2008. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or facility.

(b) The exemption under this subdivision is contingent on approval by the governing bodies of the municipality and county in which the electric generation facility is located.

Subd. 55. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electric generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must (i) be eligible to be designated as an innovative energy project under section 216B.1694, except that, notwithstanding anything to the contrary in section 216B.1694, a project may include gas-fired generating facilities that are adaptable for subsequent incorporation into a facility that uses coal as a primary fuel, provided that this exception applies only to the eligibility for exemption under this section, (ii) be within a tax relief area as defined in section 273.134, (iii) have access to existing railroad infrastructure within less than three miles, (iv) have received by resolution approval from the governing body of the county and township or city in which the proposed facility is to be located for the exemption of personal property under this subdivision, and (v) be designed to host at least 500 megawatts of electrical generation.

Construction of the first 100 megawatts of the facility must be commenced after January 1, 2006, and before January 1, 2012. Construction of up to an additional 750 megawatts of generation must be commenced before January 1, 2015. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. To qualify for an exemption under this subdivision, the owner of the electric generation facility must have an agreement with the host county, township or city, and school district, for payment in lieu of personal property taxes to the host county, township or city, and school district.

Subd. 56. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) not be owned by a public utility as defined in section 216B.02, subdivision 4;
- (3) be located within five miles of an existing natural gas pipeline and within four miles of an existing electrical transmission substation;
- (4) be located outside the metropolitan area as defined under section 473.121, subdivision 2; and
- (5) be designed to provide energy and ancillary services and have received a certificate of need under section 216B.243.

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(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2007, except that property eligible for this exemption includes any expansion of the facility that also meets the requirements of paragraph (a), clauses (1) to (5), without regard to the date that construction of the expansion commences. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 68. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 290 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) not be owned by a public utility as defined in section 216B.02, subdivision 4;
- (3) be located within 15 miles of an existing natural gas pipeline and within five miles of an existing electrical transmission substation;
- (4) be located outside the metropolitan area as defined under section 473.121, subdivision 2;

(5) be designed to provide peaking capacity energy and ancillary services and have satisfied all of the requirements under section 216B.243; and

(6) have received, by resolution, the approval from the governing body of the county, city, and school district in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after January 1, 2005, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 70. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an existing simple-cycle, combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of the construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) be owned by a public utility as defined in section 216B.02, subdivision 4, and be located at or interconnected with an existing generating plant of the utility;
- (3) be designed to provide peaking, emergency backup, or contingency services;
- (4) satisfy a resource need identified in an approved integrated resource plan filed under section 216B.2422; and

(5) have received, by resolution, the approval from the governing body of the county and the city for the exemption of personal property under this subdivision.

Construction of the facility expansion must be commenced after January 1, 2004, and before January 1, 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 71. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be owned by an electric generation and transmission cooperative;
- (3) be located within five miles of parallel existing 12-inch and 16-inch natural gas pipelines and a 69-kilovolt high-voltage electric transmission line;
- (4) be designed to provide peaking, emergency backup, or contingency services;
- (5) have received a certificate of need under section 216B.243 demonstrating demand for its capacity; and

(6) have received by resolution the approval from the governing body of the county and township in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after July 1, 2005, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

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Subd. 84. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 10.3 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize between 12 and 16 turbine generators at a dam site existing on March 31, 1994;
- (2) be located on land within 3,000 feet of a 13.8 kilovolt distribution substation; and
- (3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction of the facility must be commenced after April 30, 2006, and before January 1, 2011. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 89. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, paragraph (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be owned by an electric generation and transmission cooperative;
- (3) be located within one mile of an existing 16-inch natural gas pipeline and a 69-kilovolt and a 230-kilovolt high-voltage electric transmission line;
- (4) be designed to provide peaking, emergency backup, or contingency services;
- (5) have received a certificate of need under section 216B.243 demonstrating demand for its capacity; and
- (6) have received by resolution the approval from the governing bodies of the county and the city in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after January 1, 2008, and before January 1, 2012. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 92. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property that is part of an electric generation facility that exceeds 150 megawatts of installed capacity, does not exceed 780 megawatts of summer capacity, and meets the requirements of this subdivision is exempt. At the start of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) be owned by an entity other than a public utility as defined in section 216B.02, subdivision 4;
- (3) be located within five miles of two or more interstate natural gas pipelines;
- (4) be located within one mile of an existing electrical transmission substation with operating alternating current voltages of 115 kV, 345 kV, and 500 kV;
- (5) be designed to provide electrical capacity, energy, and ancillary services;
- (6) have satisfied all of the requirements under section 216B.243;
- (7) have executed an interconnection agreement with the Midwest Independent System Operator that does not require the acquisition of more than one mile of new electric transmission right-of-way within the county where the facility is located, and does not provide for any other new routes or corridors for future electric transmission lines in the county where the facility is located;
- (8) be located in a county with an essential services and transmission services ordinance;
- (9) have signed a development agreement with the county board in the county in which the facility is located. The development agreement must be adopted by a two-thirds vote of the county board, and must contain provisions ensuring:
 - (i) the facility is designed to use effluent from a wastewater treatment facility as its preferred water source if it includes any combined-cycle units, and will not seek an exemption from legislative approval under section 103G.265, subdivision 3, paragraph (b); and
 - (ii) all processed wastewater discharge will be colocated with the outfall of a wastewater treatment facility;
- (10) have signed a development agreement with the township board in the township in which the facility is located containing provisions ensuring that noise and visual impacts of the facility are mitigated. The development agreement must be adopted by a two-thirds vote of the township board; and
- (11) have an agreement with the host county, township, and school district for payment in lieu of personal property taxes to the host county, township, and school district for a total amount

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not to exceed \$600,000 per year for the operating life of the facility. Any amount distributed to the school district is not subject to the deductions under section 126C.21.

(b) Construction of the facility must begin after March 1, 2010, and before March 1, 2014. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the facility.

Subd. 93. **Electric generation facility; personal property.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property that is part of a simple-cycle electric generation facility of more than 40 megawatts and less than 125 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize natural gas as a primary fuel;
- (2) be located within two miles of parallel existing 36-inch natural gas pipelines and an existing 115-kilovolt high-voltage electric transmission line;
- (3) be designed to provide peaking, emergency backup, or contingency services;
- (4) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422; and

(5) have an agreement with the host county, township, and school district for payment in lieu of personal property taxes to the host county, township, and school district for the operating life of the facility. Any amount distributed to the school district is not subject to the deductions under section 126C.21.

Construction of the facility must be commenced after January 1, 2015, and before January 1, 2019. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Subd. 96. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property that is part of a multiple reciprocating engine electric generation facility that adds more than 20 and less than 30 megawatts of installed capacity at a site where there is presently more than ten megawatts and fewer than 15 megawatts of installed capacity and that meets the requirements of this subdivision is exempt from taxation and from payments in lieu of taxation. At the time of construction, the facility must:

- (1) be designed to utilize natural gas as a primary fuel;
- (2) be owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;
- (3) be located within one mile of an existing natural gas pipeline;
- (4) be designed to have black start capability and to furnish emergency backup power service to the city in which it is located;
- (5) satisfy a resource deficiency identified in an approved integrated resource plan filed under section 216B.2422; and

(6) have received, by resolution, the approval of the governing bodies of the city and county in which it is located for the exemption of personal property provided by this subdivision.

(b) Construction of the facility must be commenced after December 31, 2011, and before January 1, 2015. Property eligible for this exemption does not include (i) electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility; or (ii) property located on the site on July 20, 2011.

Subd. 99. **Electric generation facility; personal property.** (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property which is part of an electric generation facility that exceeds five megawatts of installed capacity and meets the requirements of this subdivision is exempt. At the time of construction, the facility must be:

- (1) designed to utilize natural gas as a primary fuel;
- (2) owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;
- (3) designed to utilize reciprocating engines paired with generators to produce electrical power;

(4) located within the service territory of a municipal power agency's electrical municipal utility that serves load exclusively in a metropolitan county as defined in section 473.121, subdivision 4; and

- (5) designed to connect directly with a municipality's substation.

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(b) Construction of the facility must be commenced after June 1, 2013, and before June 1, 2017. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

272.0211 SLIDING SCALE MARKET VALUE EXCLUSION FOR ELECTRIC POWER GENERATION EFFICIENCY.

Subdivision 1. **Efficiency determination and certification.** An owner or operator of a new or existing electric power generation facility, excluding wind energy conversion systems, may apply to the commissioner of revenue for a market value exclusion on the property as provided for in this section. This exclusion shall apply only to the market value of the equipment of the facility, and shall not apply to the structures and the land upon which the facility is located. The commissioner of revenue shall prescribe the forms and procedures for this application. Upon receiving the application, the commissioner of revenue shall: (1) request the commissioner of commerce to make a determination of the efficiency of the applicant's electric power generation facility; and (2) shall develop an electronic means to notify interested parties when electric power generation facilities have filed an application. The commissioner of commerce shall calculate efficiency as the ratio of useful energy outputs to energy inputs, expressed as a percentage, based on the performance of the facility's equipment during normal full load operation. The commissioner must include in this formula the energy used in any on-site preparation of materials necessary to convert the materials into the fuel used to generate electricity, such as a process to gasify petroleum coke. The commissioner shall use the Higher Heating Value (HHV) for all substances in the commissioner's efficiency calculations, except for wood for fuel in a biomass-eligible project under section 216B.2424; for these instances, the commissioner shall adjust the heating value to allow for energy consumed for evaporation of the moisture in the wood. The applicant shall provide the commissioner of commerce with whatever information the commissioner deems necessary to make the determination. Within 30 days of the receipt of the necessary information, the commissioner of commerce shall certify the findings of the efficiency determination to the commissioner of revenue and to the applicant. The commissioner of commerce shall determine the efficiency of the facility and certify the findings of that determination to the commissioner of revenue every two years thereafter from the date of the original certification.

Subd. 2. **Sliding scale exclusion.** Based upon the efficiency determination provided by the commissioner of commerce as described in subdivision 1, the commissioner of revenue shall subtract eight percent of the taxable market value of the qualifying property for each percentage point that the efficiency of the specific facility, as determined by the commissioner of commerce, is above 40 percent. The reduction in taxable market value shall be reflected in the taxable market value of the facility beginning with the assessment year immediately following the determination. The commissioner shall develop an electronic means to notify interested parties of the qualifying facilities and their respective exclusion percentages after the efficiency determination is made by the Department of Commerce. For a facility that is assessed by the county in which the facility is located, the commissioner of revenue shall certify to the assessor of that county the percentage of the taxable market value of the facility to be excluded.

Subd. 3. **Revocation.** (a) The commissioner of revenue shall revoke the market value reduction under this section, if:

(1) the applicant exercises its right under federal law to require an electric utility to purchase power generated by the facility; and

(2) the electric utility notifies the commissioner that the applicant has exercised its right to require purchase of power.

The revocation is effective beginning the first assessment year after notification of the commissioner.

(b) For purposes of this subdivision, the following terms mean:

(1) "Federal law" is the federal Public Utility Regulatory Policies Act, United States Code, title 16, section 824a-3, and regulations promulgated under that section, including Code of Federal Regulations, title 18, sections 929.303 and 929.304.

(2) "Electric utility" means an electric utility as defined in federal law described in clause (1).

Subd. 4. **Eligibility.** An owner or operator of a new or existing electric power generation facility who offers electric power generated by the facility for sale is eligible for an exclusion under this section only if:

(1) the owner or operator has received a certificate of need under section 216B.243, if required under that section;

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(2) the public utilities commission finds that an agreement exists or a good faith offer has been made to sell the majority of the net power generated by the facility to an electric utility which has a demonstrated need for the power. A right of first refusal satisfies the good faith offer requirement. The commission shall have 90 days from the date the commission receives notice of the application under subdivision 1 to make this determination;

(3) the electric utility has agreed in advance not to offer the electric power for resale to a retail customer located outside of the utility's assigned service area, or, if the utility is a generation and transmission cooperative electric association, the assigned service area of its members, unless otherwise permitted by law; and

(4) for any facility that was not certified as eligible for an exclusion under subdivision 2 for property taxes payable in 2015, the facility must be converted from coal to an alternative fuel and must have a nameplate capacity prior to conversion of less than 75 megawatts.

For the purposes of this subdivision, "electric utility" means an entity whose primary business function is to operate, maintain, or control equipment or facilities for providing electric service at retail or wholesale, and includes distribution cooperative electric associations, generation and transmission cooperative electric associations, municipal utilities, and public utilities as defined in section 216B.02, subdivision 4.