

## CHAPTER 371—H.F.No. 1127

*An act relating to utilities; providing for the establishment of flexible gas utility rates for certain customers subject to effective competition; requiring the department of public service to conduct a study; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 216B.*

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

Section 1. [216B.163] FLEXIBLE TARIFFS.

Subdivision 1. DEFINITIONS. (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Effective competition" means that a customer of a gas utility who either receives interruptible service or whose daily requirement exceeds 50,000 cubic feet maintains or plans on acquiring the capability to switch to the same, equivalent or substitutable energy supplies or service, except indigenous biomass energy supplies composed of wood products, grain, biowaste, and cellulosic materials, at comparable prices from a supplier not regulated by the commission.

(c) "Flexible tariff" means a rate schedule under which a gas utility may set or change the price for its service to an individual customer or group of customers without prior approval of the commission within a range of prices determined by the commission to be just and reasonable.

Subd. 2. FLEXIBLE TARIFFS PERMITTED. Notwithstanding any other provision of this chapter, the commission is authorized to approve a flexible tariff for any class of customers of a gas utility when provision of service, including the sale or transportation of gas, to any customers within the class is subject to effective competition. Upon application of a gas utility, the commission shall find that effective competition exists for a class of customers taking interruptible service at a level exceeding 199,000 cubic feet per day. A gas utility may only apply a flexible tariff to a customer that is subject to effective competition and a gas utility may not apply a flexible tariff or otherwise reduce its rates to compete with indigenous biomass energy supplies, or with customers of district heating facilities as of June 1, 1987. A customer subject to effective competition may elect to take service either under the flexible tariff or under the appropriate nonflexible tariff for that class of service set in accordance with section 216B.03, provided that a customer that uses an alternative energy supply or service other than indigenous biomass energy supplies from a supplier not regulated by the commission for reasons of price shall be deemed to have elected to take service under the flexible tariff.

Subd. 3. ESTABLISHING OR CHANGING A FLEXIBLE TARIFF. The commission may establish a flexible tariff through a miscellaneous rate filing only if the filing does not seek to recover any revenues which the utility expects to lose by implementing flexible tariffs from any customers who do not take service under the flexible tariff, nor to change any other rates. If a gas utility

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

requests authority to establish a flexible tariff and as part of that request seeks to recover any revenues which the utility expects to lose by implementing flexible tariffs from any customers who do not take service under the flexible tariff or to change any other rates the commission may only establish that flexible tariff within a general rate case for that gas utility. The commission may only change the rates in a flexible tariff within a gas utility's general rate case.

**Subd. 4. RATES AND TERMS OF SERVICE.** Whenever the commission authorizes a flexible tariff, it shall set the terms, and conditions of service for that tariff, which shall include:

(1) that the minimum rate for the tariff recover at least the incremental cost of providing the service;

(2) that there is no upward maximum for the rate;

(3) that a customer who elects to take service under the flexible tariff remain on that tariff for a reasonable period of time, which shall not be less than one year; and

(4) that any customer changing from a flexible tariff to the appropriate nonflexible tariff for that class pay all costs incurred by the utility due to that change.

**Subd. 5. RECOVERY OF REVENUES.** In a general rate case which establishes a flexible tariff for a gas utility, and in each general rate case of a gas utility for which a flexible tariff has been authorized, the commission shall determine a projected level of revenues and expenses from services under that tariff based on a single target rate for all sales under that tariff, which projection shall be used to determine the utility's overall rates. That target rate used to establish a level of projected revenues shall not limit the gas utility's ability or right to set rates for any customer taking service under the flexible tariff.

**Subd. 6. INTERIM FLEXIBLE TARIFF.** Notwithstanding section 216B.16, subdivision 3, if a gas utility files with the commission to establish or change a flexible tariff the commission shall permit the proposed flexible tariff to take effect on an interim basis no later than 30 days after filing. If any customers receive an increase in rates during the period that an interim flexible tariff is in effect, the increase is subject to refund as provided in section 216B.16, subdivision 3. The gas utility shall provide ten days written notice, or other notice as may be established by contract not to exceed 30 days, to a customer before implementing an interim rate increase for that customer under this section.

**Subd. 7. FINAL DETERMINATION.** The commission shall make a final determination in a proceeding begun under this section for approval of a flexible tariff, other than a filing made within a general rate case, within 180 days of the filing by the gas utility.

## Sec. 2. STUDY.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

The department of public service shall review the operation and effects of all gas utility flexible tariffs approved under section 1, and shall report to the legislature by February 1, 1990. Gas utilities that utilize a flexible tariff under section 1 shall be assessed for the actual cost of conducting the study not to exceed \$10,000. Each utility utilizing a flexible tariff shall be assessed for an equal share of the costs.

Sec. 3. **APPROPRIATION.**

There is appropriated from the general fund the sum of \$10,000 to the department of public service for the purpose of conducting the study required in section 2.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 to 3 are effective the day following final enactment, and are repealed effective July 1, 1990.

Approved June 2, 1987

**CHAPTER 372—H.F.No. 1159**

*An act relating to retirement; modifying various statewide public safety pension plan provisions; modifying various nonstatewide public safety pension plan provisions; authorizing modifications in Minneapolis teacher retirement fund association benefit plan; authorizing various purchases of prior service credit; establishing an ambulance service personnel retirement plan; limiting the uses of public pension plan assets; authorizing various miscellaneous retirement benefit modifications; making various changes in the investment authority of the state board of investment; lowering service requirements for vesting; modifying workers' compensation benefit offsets; amending Minnesota Statutes 1986, sections 11A.04; 11A.24, subdivisions 2, 3, 4, 5, and 6; 11A.25; 69.80; 352.01, subdivision 2B; 352.113, subdivision 1; 352.115, subdivision 1; 352.12, subdivision 2; 352.22, subdivision 3; 352.72, subdivision 1; 352.85, subdivision 1; 352.91, subdivision 4; 352.93, subdivision 1; 352B.08, subdivision 1; 352B.11, subdivision 2; 352B.30, subdivision 1; 353.01, subdivision 2a; 353.29, subdivisions 1 and 2; 353.30, subdivision 1c; 353.32, subdivision 1a; 353.33, subdivisions 1, 5, and by adding a subdivision; 353.34, subdivision 3; 353.64, by adding a subdivision; 353.651, subdivisions 1 and 2; 353.656, subdivisions 2, 3, and by adding a subdivision; 353.657, subdivision 2a; 353.71, subdivision 1; 354.44, subdivision 1; 354.46, subdivision 2; 354.48, subdivision 1; 354.49, subdivision 3; 354.60; 354A.31, subdivisions 1, 5, and 6; 354A.35, subdivision 2; 354A.36, subdivision 1; 354A.39; 356.20, subdivision 2; 356.30, subdivisions 1 and 3; 356.32, subdivision 2; 424.04; and 424A.02, subdivision 9; Laws 1949, chapter 406, section 4, subdivisions 2 and 3, as amended, section 5, subdivisions 1 and 3, as amended, and section 6, subdivision 1, as amended; Laws 1967, chapter 678, section 2, as amended, chapter 751, section 2; Laws 1971, chapter 614, section 1, subdivision 2, as amended; Laws 1977, chapter 169, section 1, subdivision 1a, as amended; and Laws 1980, chapter 607, article 15, section 9; proposing coding for new law in Minnesota Statutes, chapters 356 and 423A; proposing coding for new law as Minnesota Statutes, chapters 353A, 353B and 356A.*

Changes or additions are indicated by underline, deletions by ~~strikeout~~.