

A bill for an act
relating to energy; providing for payment of wholesale energy rate for qualifying
facility; amending Minnesota Statutes 2010, section 216B.164, subdivision 3.

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

Section 1. Minnesota Statutes 2010, section 216B.164, subdivision 3, is amended to
read:

Subd. 3. **Purchases; small facilities.** (a) For a qualifying facility having less than
40-kilowatt capacity, the customer shall be billed for the net energy supplied by the utility
according to the applicable rate schedule for sales to that class of customer. In the case
of net input into the utility system by a qualifying facility having less than 40-kilowatt
capacity, compensation to the customer shall be at a per kilowatt-hour rate determined
under paragraph (b) or (c).

(b) In setting rates, the commission shall consider the fixed distribution costs to the
utility not otherwise accounted for in the basic monthly charge and shall ensure that the
costs charged to the qualifying facility are not discriminatory in relation to the costs
charged to other customers of the utility. The commission shall set the rates for net
input into the utility system based on avoided costs as defined in the Code of Federal
Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of
Federal Regulations, title 18, section 292.304, and all other relevant factors.

(c) Notwithstanding any provision in this chapter or any rule to the contrary, a
qualifying facility having less than 40-kilowatt capacity may elect that the compensation
for net input by the qualifying facility into the utility system shall be at the average ~~retail~~
wholesale utility energy rate. "Average ~~retail~~ wholesale utility energy rate" is defined
as the average of the ~~retail~~ wholesale energy rates, exclusive of special rates ~~based on~~

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2.1 ~~income, age, or energy conservation, according to the applicable rate schedule of the~~
2.2 ~~utility for sales to that class of customer.~~

2.3 (d) If the qualifying facility is interconnected with a nongenerating utility which has
2.4 a sole source contract with a municipal power agency or a generation and transmission
2.5 utility, the nongenerating utility may elect to treat its purchase of any net input under this
2.6 subdivision as being made on behalf of its supplier and shall be reimbursed by its supplier
2.7 for any additional costs incurred in making the purchase. Qualifying facilities having
2.8 less than 40-kilowatt capacity may, at the customer's option, elect to be governed by
2.9 the provisions of subdivision 4.