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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 880

02/25/2013 Authored by Hornstein, Nelson, Atkins, Morgan and Persell
The bill was read for the first time and referred to the Committee on Energy Policy

1.1 A bill for an act
1.2 relating to energy; increasing and extending the renewable energy standard
1.3 to 2030; establishing a solar energy standard; exempting renewable energy
1.4 projects from the certificate of need process; requiring uniform reporting of rate
1.5 impacts of meeting the renewable energy standard; modifying the treatment
1.6 and trading of renewable energy credits; amending Minnesota Statutes 2012,
1.7 sections 216B.1645, subdivision 2a; 216B.1691, subdivisions 2a, 2e, 4, by
1.8 adding a subdivision; 216B.243, subdivision 8; repealing Minnesota Statutes
1.9 2012, section 216B.243, subdivision 9.

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

1.11 Section 1. Minnesota Statutes 2012, section 216B.1645, subdivision 2a, is amended to
1.12 read:

1.13 Subd. 2a. **Cost recovery for utility's renewable facilities.** (a) A utility may petition
1.14 the commission to approve a rate schedule that provides for the automatic adjustment of
1.15 charges to recover prudently incurred investments, expenses, or costs associated with
1.16 facilities constructed, owned, or operated by a utility to satisfy the requirements of section
1.17 216B.1691, provided those facilities were previously approved by the commission under
1.18 section 216B.2422 or 216B.243, ~~or were determined by the commission to be reasonable~~
1.19 ~~and prudent under section 216B.243, subdivision 9.~~ For facilities not subject to review
1.20 by the commission under section 216B.2422 or 216B.243, a utility shall petition the
1.21 commission for eligibility for cost recovery under this section prior to requesting cost
1.22 recovery for the facility. The commission may approve, or approve as modified, a rate
1.23 schedule that:

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

1.26 (i) return on investment;

2.1 (ii) depreciation;
 2.2 (iii) ongoing operation and maintenance costs;
 2.3 (iv) taxes; and
 2.4 (v) costs of transmission and other ancillary expenses directly allocable to
 2.5 transmitting electricity generated from a project meeting the specifications of this
 2.6 paragraph;

2.7 (2) provides a current return on construction work in progress, provided that recovery
 2.8 of these costs from Minnesota ratepayers is not sought through any other mechanism;

2.9 (3) allows recovery of other expenses incurred that are directly related to a
 2.10 renewable energy project, including expenses for energy storage, provided that the utility
 2.11 demonstrates to the commission's satisfaction that the expenses improve project economics,
 2.12 ensure project implementation, advance research and understanding of how storage devices
 2.13 may improve renewable energy projects, or facilitate coordination with the development
 2.14 of transmission necessary to transport energy produced by the project to market;

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

2.16 (5) terminates recovery when costs have been fully recovered or have otherwise
 2.17 been reflected in a utility's rates.

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

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

2.20 (2) an implementation schedule for the facilities;

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

2.22 (4) a description of the utility's efforts to ensure that costs of the facilities are
 2.23 reasonable and were prudently incurred; and

2.24 (5) a description of the benefits of the project in promoting the development of
 2.25 renewable energy in a manner consistent with this chapter.

2.26 Sec. 2. Minnesota Statutes 2012, section 216B.1691, subdivision 2a, is amended to read:

2.27 Subd. 2a. **Eligible energy technology standard.** (a) Except as provided in
 2.28 paragraph (b), each electric utility shall generate or procure sufficient electricity generated
 2.29 by an eligible energy technology to provide its retail customers in Minnesota, or the
 2.30 retail customers of a distribution utility to which the electric utility provides wholesale
 2.31 electric service, so that at least the following standard percentages of the electric utility's
 2.32 total retail electric sales to retail customers in Minnesota are generated by eligible energy
 2.33 technologies by the end of the year indicated:

2.34 (1) 2012 12 percent

2.35 (2) 2016 ~~17~~ 19 percent

- 3.1 (3) 2020 ~~20~~ 22 percent
 3.2 (4) 2025 25 percent:
 3.3 (5) 2030 40 percent.

3.4 (b) An electric utility that owned a nuclear generating facility as of January 1, 2007,
 3.5 must meet the requirements of this paragraph rather than paragraph (a). An electric utility
 3.6 subject to this paragraph must generate or procure sufficient electricity generated by
 3.7 an eligible energy technology to provide its retail customers in Minnesota or the retail
 3.8 customer of a distribution utility to which the electric utility provides wholesale electric
 3.9 service so that at least the following percentages of the electric utility's total retail electric
 3.10 sales to retail customers in Minnesota are generated by eligible energy technologies by the
 3.11 end of the year indicated:

- 3.12 (1) 2010 15 percent
 3.13 (2) 2012 18 percent
 3.14 (3) 2016 25 percent
 3.15 (4) 2020 30 percent:
 3.16 (5) 2025 35 percent
 3.17 (6) 2030 40 percent.

3.18 ~~Of the 30 percent in 2020, at least 25 percent must be generated by solar energy~~
 3.19 ~~or wind energy conversion systems and the remaining five percent by other eligible~~
 3.20 ~~energy technology. Of the 25 percent that must be generated by wind or solar, no more~~
 3.21 ~~than one percent may be solar generated and the remaining 24 percent or greater must~~
 3.22 ~~be wind generated.~~

3.23 By 2016, at least 20 percent of total retail electric sales must be generated by wind
 3.24 energy conversion systems. By 2020, at least 25 percent of total retail electric sales must
 3.25 be generated by wind energy conversion systems.

3.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

3.27 Sec. 3. Minnesota Statutes 2012, section 216B.1691, subdivision 2e, is amended to read:

3.28 Subd. 2e. **Rate impact of standard compliance; report.** Each electric utility must
 3.29 submit to the commission and the legislative committees with primary jurisdiction over
 3.30 energy policy a report containing an estimation of the rate impact of activities of the
 3.31 electric utility necessary to comply with this section. In consultation with the Department
 3.32 of Commerce, the commission shall determine a uniform reporting system to ensure that
 3.33 individual utility reports are consistent and comparable, and shall, by order, require each
 3.34 electric utility subject to this section to use that reporting system. The rate impact estimate
 3.35 must be for wholesale rates and, if the electric utility makes retail sales, the estimate

4.1 shall also be for the impact on the electric utility's retail rates. Those activities include,
 4.2 without limitation, energy purchases, generation facility acquisition and construction, and
 4.3 transmission improvements. An initial report must be submitted within 150 days of May
 4.4 28, 2011. After the initial report, a report must be updated and submitted as part of each
 4.5 integrated resource plan or plan modification filed by the electric utility under section
 4.6 216B.2422. The reporting obligation of an electric utility under this subdivision expires
 4.7 December 31, 2025, for an electric utility subject to subdivision 2a, paragraph (a), and
 4.8 December 31, 2020, for an electric utility subject to subdivision 2a, paragraph (b).

4.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.10 Sec. 4. Minnesota Statutes 2012, section 216B.1691, is amended by adding a
 4.11 subdivision to read:

4.12 **Subd. 2f. Solar energy standard.** (a) Each electric utility shall generate or procure
 4.13 sufficient electricity generated by solar energy technology to provide its retail customers
 4.14 in Minnesota, or the retail customers of a distribution utility to which the electric utility
 4.15 provides wholesale electric service, so that at least the following standard percentages of
 4.16 the electric utility's total retail electric sales to retail customers in Minnesota are generated
 4.17 by solar energy technologies by the end of the year indicated:

- 4.18 (1) 2014 ... percent
- 4.19 (2) 2016 ... percent
- 4.20 (3) 2020 ... percent
- 4.21 (4) 2025 ... percent.

4.22 (b) An electric utility may elect to apply electricity generated using solar energy
 4.23 technology and purchased under a single power purchase agreement to either its standard
 4.24 obligation under subdivision 2a or 2b or its solar energy standard under this subdivision,
 4.25 but not to both.

4.26 **EFFECTIVE DATE.** This section is effective the day following final enactment.

4.27 Sec. 5. Minnesota Statutes 2012, section 216B.1691, subdivision 4, is amended to read:

4.28 **Subd. 4. Renewable energy credits.** (a) To facilitate compliance with this section,
 4.29 the commission, by rule or order, shall establish by January 1, 2008, a program for
 4.30 tradable renewable energy credits for electricity generated by eligible energy technology.
 4.31 The credits must represent energy produced by an eligible energy technology, as defined in
 4.32 subdivision 1. Each kilowatt-hour of renewable energy credits must be treated the same as
 4.33 a kilowatt-hour of eligible energy technology generated or procured by an electric utility

5.1 if it is produced by an eligible energy technology, except that only credits representing
 5.2 electricity generated from solar energy may be used to meet the solar energy standard
 5.3 under subdivision 2b. The program must permit a credit to be used only once. The
 5.4 program must treat all eligible energy technology equally and shall not give more or less
 5.5 credit to energy based on the state where the energy was generated or the technology with
 5.6 which the energy was generated. The commission ~~must determine the period in which the~~
 5.7 may not allow credits may held for longer than one year beyond the year in which they
 5.8 were generated to be used for purposes of the program.

5.9 (b) In lieu of generating or procuring energy directly to satisfy the eligible energy
 5.10 technology objective or standard of this section, an electric utility may utilize renewable
 5.11 energy credits allowed under the program to satisfy the objective or standard.

5.12 (c) The commission shall facilitate the trading of renewable energy credits between
 5.13 Minnesota and states with renewable energy standard goals comparable to those in
 5.14 subdivisions 2a and 2b and states that allow the purchase of Minnesota-generated
 5.15 renewable energy credits.

5.16 (d) The commission shall require all electric utilities to participate in a
 5.17 commission-approved credit-tracking system or systems. Once a credit-tracking system is
 5.18 in operation, the commission shall issue an order establishing protocols for trading credits.

5.19 ~~(e) An electric utility subject to subdivision 2a, paragraph (b), may not sell renewable~~
 5.20 ~~energy credits to an electric utility subject to subdivision 2a, paragraph (a), until 2021.~~

5.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.22 Sec. 6. Minnesota Statutes 2012, section 216B.243, subdivision 8, is amended to read:

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

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

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

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

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

6.3 (5) conversion of the fuel source of an existing electric generating plant to using
6.4 natural gas; ~~or~~

6.5 (6) the modification of an existing electric generating plant to increase efficiency,
6.6 as long as the capacity of the plant is not increased more than ten percent or more than
6.7 100 megawatts, whichever is greater; or

6.8 (7) a wind energy conversion system or solar electric generation facility.

6.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.10 Sec. 7. **REPEALER.**

6.11 Minnesota Statutes 2012, section 216B.243, subdivision 9, is repealed.

6.12 **EFFECTIVE DATE.** This section is effective the day following final enactment.

216B.243 CERTIFICATE OF NEED FOR LARGE ENERGY FACILITY.

Subd. 9. **Renewable energy standard facilities.** This section does not apply to a wind energy conversion system or a solar electric generation facility that is intended to be used to meet the obligations of section 216B.1691; provided that, after notice and comment, the commission determines that the facility is a reasonable and prudent approach to meeting a utility's obligations under that section. When making this determination, the commission must consider:

- (1) the size of the facility relative to a utility's total need for renewable resources;
- (2) alternative approaches for supplying the renewable energy to be supplied by the proposed facility;
- (3) the facility's ability to promote economic development, as required under section 216B.1691, subdivision 9;
- (4) the facility's ability to maintain electric system reliability;
- (5) impacts on ratepayers; and
- (6) other criteria as the commission may determine are relevant.