

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH SESSION

S.F. No. 2049

(SENATE AUTHORS: DIBBLE)

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|------------|------|--|
| 02/27/2014 | 5889 | Introduction and first reading Referred to Environment and Energy |
| 03/31/2014 | | Comm report: To pass as amended Second reading |

A bill for an act

relating to energy; utilities; authorizing a bill for gas or electric services to include charges for certain conservation improvements; requiring a Sustainable Building 2030 incentive rate; requiring industrial energy efficiency plans to meet forecasted electric generation capacity needs; amending Minnesota Statutes 2012, sections 216B.241, by adding a subdivision; 216B.2422, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

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

Section 1. **[216B.1631] SUSTAINABLE BUILDING 2030 INCENTIVE RATES.**

(a) The commissioner may require a public utility, as part of its obligation under section 216B.241, subdivision 9, paragraph (e), to file a tariff with the commission providing special rates for commercial, industrial, and institutional customers for a building that is newly constructed or substantially reconstructed to meet the Sustainable Building 2030 energy efficiency performance standards scheduled to become effective in 2015 under section 216B.241, subdivision 9. The commission shall approve a Sustainable Building 2030 incentive rates tariff if the commission finds the proposal:

(1) encourages energy conservation and otherwise satisfies the requirements of section 216B.03;

(2) requires customers to apply for the incentive rates prior to completion of construction or reconstruction and provides evidence that the 2015 energy efficiency performance standards will be met;

(3) requires the public utility to establish procedures to verify that a building meets the 2015 energy efficiency performance standards while it is charged the Sustainable Building 2030 incentive rates;

2.1 (4) provides incentive rates that are discounted from the public utility's standard
2.2 tariffed rates and fees;

2.3 (5) limits incentive rates for a building to a term not exceeding ten consecutive years;

2.4 (6) sets the incentive rates at a level sufficient to cover the public utility's incremental
2.5 cost of providing service to the customer;

2.6 (7) allows the public utility to seek recovery of the difference in revenue collected
2.7 under the incentive rates and what would have been collected under the utility's standard
2.8 tariffed rates, except that the utility may not recover the difference from residential
2.9 customers; and

2.10 (8) is consistent with the public interest.

2.11 (b) The commission may approve, disapprove, or modify a proposed incentive
2.12 rate filed under this section. A large customer facility, as that term is defined in section
2.13 216B.241, subdivision 1, that has been exempted from the investment and expenditure
2.14 requirements of section 216B.241, subdivision 1a, paragraph (a), is not eligible for an
2.15 incentive rate under this section.

2.16 (c) A public utility may count the incremental savings associated with the energy
2.17 conservation improvements incented by the rate discount under this section toward
2.18 satisfying its energy-savings goals under section 216B.241, subdivision 1c.

2.19 Sec. 2. Minnesota Statutes 2012, section 216B.241, is amended by adding a
2.20 subdivision to read:

2.21 Subd. 5d. **On-bill loan repayment programs.** (a) For the purposes of this
2.22 subdivision, "utility" means a public utility, municipal utility, or cooperative electric
2.23 association that provides electric or natural gas service to retail customers.

2.24 (b) A utility may include as part of its conservation improvement plan an on-bill
2.25 loan repayment program for a customer to finance eligible projects with installment
2.26 loans originated by an eligible lender. An eligible project is one that is either an energy
2.27 conservation improvement, or a project that uses an eligible renewable energy source as
2.28 that term is defined in section 216B.2411, subdivision 2, paragraph (b), but does not
2.29 include mixed municipal solid waste or refuse-derived fuel from mixed municipal solid
2.30 waste. To be an eligible lender, a lender must have a federal or state charter and be eligible
2.31 for federal deposit insurance. The commissioner must allow a utility broad discretion in
2.32 the design and implementation of an on-bill loan repayment program, provided that the
2.33 program complies with this subdivision.

2.34 (c) A utility may establish an on-bill loan repayment program for all customer
2.35 classes or for a specific customer class.

3.1 (d) A utility that implements an on-bill repayment program under this section
3.2 must contract with one or more eligible lenders for program capital commitments, loan
3.3 origination, transfer of loans to the utility for on-bill loan repayment, and acceptance of
3.4 loans returned due to delinquency or default.

3.5 (e) A utility's contract with a lender must require the lender to comply with all
3.6 applicable federal and state laws, rules, and regulations related to lending practices and
3.7 consumer protection, and to conform to reasonable and prudent lending standards.

3.8 (f) A utility's contract with a lender may provide:

3.9 (1) for the utility to purchase loans from the lender with a condition that the lender
3.10 must purchase back loans in delinquency or default; or

3.11 (2) provide for the lender to retain ownership of loans with the utility servicing the
3.12 loans through on-bill repayment as long as payments are current.

3.13 The risk of default must remain with the lender. The lender shall not have recourse against
3.14 the utility except in the event of negligence or breach of contract by the utility.

3.15 (g) If a utility customer makes a partial payment on a utility bill that includes a loan
3.16 installment, the partial payment must be credited first to the amount owed for utility
3.17 service, including taxes and fees. A utility may not suspend or terminate a customer's
3.18 utility service for delinquency or default on a loan that is being serviced through the
3.19 utility's on-bill loan repayment program.

3.20 (h) An outstanding balance is not a financial obligation of the next customer to
3.21 occupy the premises associated with that utility account. The utility must return to the
3.22 lender a loan not repaid when a customer borrower no longer occupies the premises.

3.23 (i) The commission may approve recovery under section 216B.16, subdivision 6b,
3.24 paragraph (c), of reasonable costs for billing system modifications necessary to implement
3.25 and operate an on-bill loan repayment program and for ongoing costs to operate the
3.26 program. Approved costs may be counted toward a utility's conservation spending
3.27 requirements under subdivisions 1a and 1b. Energy savings from energy conservation
3.28 improvements resulting from this section may be counted toward satisfying a utility's
3.29 energy-savings goals under subdivision 1c.

3.30 (j) This subdivision does not require a utility to terminate or modify an existing
3.31 financing program and does not prohibit a utility from establishing an on-bill financing
3.32 program in which the utility provides the financing capital.

3.33 Sec. 3. Minnesota Statutes 2012, section 216B.2422, subdivision 2, is amended to read:

3.34 Subd. 2. **Resource plan filing and approval.** (a) A utility shall file a resource plan
3.35 with the commission periodically in accordance with rules adopted by the commission.

4.1 The commission shall approve, reject, or modify the plan of a public utility, as defined in
4.2 section 216B.02, subdivision 4, consistent with the public interest. In the resource plan
4.3 proceedings of all other utilities, the commission's order shall be advisory and the order's
4.4 findings and conclusions shall constitute prima facie evidence which may be rebutted
4.5 by substantial evidence in all other proceedings. With respect to utilities other than
4.6 those defined in section 216B.02, subdivision 4, the commission shall consider the filing
4.7 requirements and decisions in any comparable proceedings in another jurisdiction.

4.8 (b) As a part of its resource plan filing, a utility shall include:

4.9 (1) the least cost plan for meeting 50 and 75 percent of all new and refurbished
4.10 capacity needs through a combination of conservation and renewable energy resources; and

4.11 (2) an analysis of the cost and technical barriers to the utility continuing to make
4.12 progress on its system toward achieving the state greenhouse gas emission reduction goals
4.13 established in section 216H.02, subdivision 1, and the technologies, alternatives, and steps
4.14 the utility is considering to address those barriers.

4.15 Sec. 4. Minnesota Statutes 2012, section 216B.2422, is amended by adding a
4.16 subdivision to read:

4.17 Subd. 2c. **Resource acquisition; combined heat and power.** (a) A utility that has a
4.18 forecasted need for capacity greater than 25 megawatts within five years from the date of
4.19 approval or acceptance of its most recent resource plan under subdivision 2 must:

4.20 (1) notify the industrial customers of the utility, or of the distribution utility to which
4.21 the utility provides wholesale electric service, that the utility is interested in industrial
4.22 combined heat and power projects of greater than 60 percent total system efficiency;

4.23 (2) evaluate proposals submitted by industrial customers along with supply
4.24 alternatives being considered by the utility to meet the forecasted need; and

4.25 (3) acquire the least cost resource or combination of resources available to the utility.

4.26 (b) The utility must demonstrate compliance with this subdivision in its next filing
4.27 under this section or in its next filing under section 216B.243, whichever comes first. A
4.28 utility may elect to satisfy this subdivision by filing and receiving commission approval
4.29 of a standard offer tariff to acquire industrial combined heat and power installations of
4.30 greater than 60 percent total system efficiency.