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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 2035

02/20/2023 Authored by Bierman and Garofalo
The bill was read for the first time and referred to the Committee on Climate and Energy Finance and Policy

1.1 A bill for an act
1.2 relating to energy; modifying various provisions governing utilities; amending
1.3 Minnesota Statutes 2022, sections 216B.1645, subdivision 2a; 216B.2425,
1.4 subdivision 3; 216B.50, subdivision 1; Laws 2005, chapter 97, article 10, section
1.5 3, as amended; repealing Minnesota Statutes 2022, section 116C.83, subdivision
1.6 3.

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

1.8 Section 1. Minnesota Statutes 2022, section 216B.1645, subdivision 2a, is amended to
1.9 read:

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

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

1.24 (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 transmitting
2.5 electricity generated from a project meeting the specifications of this paragraph;

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

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

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

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

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

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

2.19 (2) an implementation schedule for the facilities;

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

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

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

2.25 Sec. 2. Minnesota Statutes 2022, section 216B.2425, subdivision 3, is amended to read:

2.26 Subd. 3. **Commission approval.** (a) By June 1 of each even-numbered year, the
2.27 commission shall adopt a state transmission project list and shall certify, certify as modified,
2.28 or deny certification of the transmission and distribution projects proposed under subdivision
2.29 2. Except as provided in paragraph (b), the commission may only certify a project that is a
2.30 high-voltage transmission line as defined in section 216B.2421, subdivision 2, that the
2.31 commission finds is:

3.1 (1) necessary to maintain or enhance the reliability of electric service to Minnesota
 3.2 consumers;

3.3 (2) needed, applying the criteria in section 216B.243, subdivision 3; and

3.4 (3) in the public interest, taking into account electric energy system needs and economic,
 3.5 environmental, and social interests affected by the project.

3.6 (b) The commission may certify a project proposed under subdivision 2, paragraph (e),
 3.7 only if the commission finds the proposed project is in the public interest.

3.8 Sec. 3. Minnesota Statutes 2022, section 216B.50, subdivision 1, is amended to read:

3.9 Subdivision 1. **Commission approval required.** No public utility shall sell, acquire,
 3.10 lease, or rent any plant as an operating unit or system in this state for a total consideration
 3.11 in excess of ~~\$100,000~~ \$....., or merge or consolidate with another public utility or
 3.12 transmission company operating in this state, without first being authorized so to do by the
 3.13 commission. Upon the filing of an application for the approval and consent of the
 3.14 commission, the commission shall investigate, with or without public hearing. The
 3.15 commission shall hold a public hearing, upon such notice as the commission may require.
 3.16 If the commission finds that the proposed action is consistent with the public interest, it
 3.17 shall give its consent and approval by order in writing. In reaching its determination, the
 3.18 commission shall take into consideration the reasonable value of the property, plant, or
 3.19 securities to be acquired or disposed of, or merged and consolidated.

3.20 This section does not apply to the purchase of property to replace or add to the plant of
 3.21 the public utility by construction.

3.22 Sec. 4. Laws 2005, chapter 97, article 10, section 3, as amended by Laws 2013, chapter
 3.23 85, article 7, section 9, is amended to read:

3.24 Sec. 3. **SUNSET.**

3.25 Sections 1 and 2 shall expire on June 30, ~~2023~~ 2028.

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

3.27 Sec. 5. **REPEALER.**

3.28 Minnesota Statutes 2022, section 116C.83, subdivision 3, is repealed.

116C.83 AUTHORIZATION FOR ADDITIONAL DRY CASK STORAGE.

Subd. 3. **Legislative review.** (a) To allow opportunity for review by the legislature, a decision by the commission on an application for a certificate of need pursuant to subdivision 2 is stayed until the June 1 following the next regular annual session of the legislature that begins after the date of the commission decision. By January 15 of the year of that legislative session, the commission shall issue a report to the chairs of the house of representatives and senate committees with jurisdiction over energy and environmental policy issues, providing a summary of the commission's decision and the grounds for that decision, the alternatives considered and rejected by the commission, and the reasons for rejecting those alternatives. If the legislature does not modify or reject the commission's decision by law enacted during that regular legislative session, the commission's decision shall become effective on the expiration of the stay.

(b) The stay of a commission decision to approve an application for a certificate of need for additional dry cask storage under subdivision 2 does not apply to the fabrication of the spent-fuel storage casks. However, if the utility proceeds with the fabrication of casks, it does so bearing the risk of an adverse legislative decision.