

216B.1691 RENEWABLE ENERGY OBJECTIVES.

Subdivision 1. **Definitions.** (a) Unless otherwise specified in law, "eligible energy technology" means an energy technology that generates electricity from the following renewable energy sources:

- (1) solar;
- (2) wind;
- (3) hydroelectric with a capacity of less than 100 megawatts;

(4) hydrogen, provided that after January 1, 2010, the hydrogen must be generated from the resources listed in this paragraph; or

(5) biomass, which includes, without limitation, landfill gas; an anaerobic digester system; the predominantly organic components of wastewater effluent, sludge, or related by-products from publicly owned treatment works, but not including incineration of wastewater sludge to produce electricity; and an energy recovery facility used to capture the heat value of mixed municipal solid waste or refuse-derived fuel from mixed municipal solid waste as a primary fuel.

(b) "Electric utility" means a public utility providing electric service, a generation and transmission cooperative electric association, a municipal power agency, or a power district.

(c) "Total retail electric sales" means the kilowatt-hours of electricity sold in a year by an electric utility to retail customers of the electric utility or to a distribution utility for distribution to the retail customers of the distribution utility. "Total retail electric sales" does not include the sale of hydroelectricity supplied by a federal power marketing administration or other federal agency, regardless of whether the sales are directly to a distribution utility or are made to a generation and transmission utility and pooled for further allocation to a distribution utility.

Subd. 2. **Eligible energy objectives.** Each electric utility shall make a good faith effort to generate or procure sufficient electricity generated by an eligible energy technology to provide its retail consumers, or the retail customers of a distribution utility to which the electric utility provides wholesale electric service, so that commencing in 2005, at least one percent of the electric utility's total retail electric sales to retail customers in Minnesota is generated by eligible energy technologies and seven percent of the electric utility's total retail electric sales to retail customers in Minnesota by 2010 is generated by eligible energy technologies.

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

- | | | |
|-----|------|-------------|
| (1) | 2012 | 12 percent |
| (2) | 2016 | 17 percent |
| (3) | 2020 | 20 percent |
| (4) | 2025 | 25 percent. |

(b) An electric utility that owned a nuclear generating facility as of January 1, 2007, must meet the requirements of this paragraph rather than paragraph (a). An electric utility subject to

this paragraph must generate or procure sufficient electricity generated by an eligible energy technology to provide its retail customers in Minnesota or the retail customer of a distribution utility to which the electric utility provides wholesale electric service so that at least the following percentages of the electric utility's total retail electric sales to retail customers in Minnesota are generated by eligible energy technologies by the end of the year indicated:

- (1) 2010 15 percent
- (2) 2012 18 percent
- (3) 2016 25 percent
- (4) 2020 30 percent.

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

Subd. 2b. **Modification or delay of standard.** (a) The commission shall modify or delay the implementation of a standard obligation, in whole or in part, if the commission determines it is in the public interest to do so. The commission, when requested to modify or delay implementation of a standard, must consider:

- (1) the impact of implementing the standard on its customers' utility costs, including the economic and competitive pressure on the utility's customers;
- (2) the effects of implementing the standard on the reliability of the electric system;
- (3) technical advances or technical concerns;
- (4) delays in acquiring sites or routes due to rejection or delays of necessary siting or other permitting approvals;
- (5) delays, cancellations, or nondelivery of necessary equipment for construction or commercial operation of an eligible energy technology facility;
- (6) transmission constraints preventing delivery of service; and
- (7) other statutory obligations imposed on the commission or a utility.

The commission may modify or delay implementation of a standard obligation under clauses (1) to (3) only if it finds implementation would cause significant rate impact, requires significant measures to address reliability, or raises significant technical issues. The commission may modify or delay implementation of a standard obligation under clauses (4) to (6) only if it finds that the circumstances described in those clauses were due to circumstances beyond an electric utility's control and make compliance not feasible.

(b) When considering whether to delay or modify implementation of a standard obligation, the commission must give due consideration to a preference for electric generation through use of eligible energy technology and to the achievement of the standards set by this section.

(c) An electric utility requesting a modification or delay in the implementation of a standard must file a plan to comply with its standard obligation in the same proceeding that it is requesting the delay.

Subd. 2c. **Use of integrated resource planning process.** The commission may exercise its authority under subdivision 2b to modify or delay implementation of a standard obligation as part of an integrated resource planning proceeding under section 216B.2422. The commission's authority must be exercised according to subdivision 2b. The order to delay or modify shall not be considered advisory with respect to any electric utility. This subdivision is in addition to and does not limit the commission's authority to modify or delay implementation of a standard obligation in other proceedings before the commission.

Subd. 2d. **Commission order.** The commission shall issue necessary orders detailing the criteria and standards by which it will measure an electric utility's efforts to meet the renewable energy objectives of subdivision 2 to determine whether the utility is making the required good faith effort. In this order, the commission shall include criteria and standards that protect against undesirable impacts on the reliability of the utility's system and economic impacts on the utility's ratepayers and that consider technical feasibility.

Subd. 2e. **Rate impact of standard compliance; report.** Each electric utility must submit to the commission and the legislative committees with primary jurisdiction over energy policy a report containing an estimation of the rate impact of activities of the electric utility necessary to comply with this section. The rate impact estimate must be for wholesale rates and, if the electric utility makes retail sales, the estimate shall also be for the impact on the electric utility's retail rates. Those activities include, without limitation, energy purchases, generation facility acquisition and construction, and transmission improvements. An initial report must be submitted within 150 days of May 28, 2011. After the initial report, a report must be updated and submitted as part of each integrated resource plan or plan modification filed by the electric utility under section 216B.2422. The reporting obligation of an electric utility under this subdivision expires December 31, 2025, for an electric utility subject to subdivision 2a, paragraph (a), and December 31, 2020, for an electric utility subject to subdivision 2a, paragraph (b).

Subd. 3. **Utility plans filed with commission.** (a) Each electric utility shall report on its plans, activities, and progress with regard to the objectives and standards of this section in its filings under section 216B.2422 or in a separate report submitted to the commission every two years, whichever is more frequent, demonstrating to the commission the utility's effort to comply with this section. In its resource plan or a separate report, each electric utility shall provide a description of:

- (1) the status of the utility's renewable energy mix relative to the objective and standards;
- (2) efforts taken to meet the objective and standards;
- (3) any obstacles encountered or anticipated in meeting the objective or standards; and
- (4) potential solutions to the obstacles.

(b) The commissioner shall compile the information provided to the commission under paragraph (a), and report to the chairs of the house of representatives and senate committees with jurisdiction over energy and environment policy issues as to the progress of utilities in the state, including the progress of each individual electric utility, in increasing the amount of renewable energy provided to retail customers, with any recommendations for regulatory or legislative action, by January 15 of each odd-numbered year.

Subd. 4. **Renewable energy credits.** (a) To facilitate compliance with this section, the commission, by rule or order, shall establish by January 1, 2008, a program for tradable renewable energy credits for electricity generated by eligible energy technology. The credits must represent

energy produced by an eligible energy technology, as defined in subdivision 1. Each kilowatt-hour of renewable energy credits must be treated the same as a kilowatt-hour of eligible energy technology generated or procured by an electric utility if it is produced by an eligible energy technology. The program must permit a credit to be used only once. The program must treat all eligible energy technology equally and shall not give more or less credit to energy based on the state where the energy was generated or the technology with which the energy was generated. The commission must determine the period in which the credits may be used for purposes of the program.

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

(c) The commission shall facilitate the trading of renewable energy credits between states.

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

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

Subd. 5. Technology based on fuel combustion. (a) Electricity produced by fuel combustion through fuel blending or co-firing under paragraph (b) may only count toward a utility's objectives or standards if the generation facility:

(1) was constructed in compliance with new source performance standards promulgated under the federal Clean Air Act, United States Code, title 42, section 7401 et seq., for a generation facility of that type; or

(2) employs the maximum achievable or best available control technology available for a generation facility of that type.

(b) An eligible energy technology may blend or co-fire a fuel listed in subdivision 1, paragraph (a), clause (5), with other fuels in the generation facility, but only the percentage of electricity that is attributable to a fuel listed in that clause can be counted toward an electric utility's renewable energy objectives.

Subd. 6. [Repealed by amendment, 2007 c 3 s 1]

Subd. 7. Compliance. The commission must regularly investigate whether an electric utility is in compliance with its good faith objective under subdivision 2 and standard obligation under subdivision 2a. If the commission finds noncompliance, it may order the electric utility to construct facilities, purchase energy generated by eligible energy technology, purchase renewable energy credits, or engage in other activities to achieve compliance. If an electric utility fails to comply with an order under this subdivision, the commission may impose a financial penalty on the electric utility in an amount not to exceed the estimated cost of the electric utility to achieve compliance. The penalty may not exceed the lesser of the cost of constructing facilities or purchasing credits. The commission must deposit financial penalties imposed under this subdivision in the energy and conservation account established in the special revenue fund under section 216B.241, subdivision 2a. This subdivision is in addition to and does not limit any other authority of the commission to enforce this section.

Subd. 8. **Relation to other law.** This section does not limit the authority of the commission under any other law, including, without limitation, sections 216B.2422 and 216B.243.

Subd. 9. **Local benefits.** The commission shall take all reasonable actions within its statutory authority to ensure this section is implemented to maximize benefits to Minnesota citizens, balancing factors such as local ownership of or participation in energy production, development and ownership of eligible energy technology facilities by independent power producers, Minnesota utility ownership of eligible energy technology facilities, the costs of energy generation to satisfy the renewable standard, and the reliability of electric service to Minnesotans.

Subd. 10. **Utility acquisition of resources.** A competitive resource acquisition process established by the commission prior to June 1, 2007, shall not apply to a utility for the construction, ownership, and operation of generation facilities used to satisfy the requirements of this section unless, upon a finding that it is in the public interest, the commission issues an order on or after June 1, 2007, that requires compliance by a utility with a competitive resource acquisition process. A utility that owns a nuclear generation facility and intends to construct, own, or operate facilities under this section shall file with the commission on or before March 1, 2008, a renewable energy plan setting forth the manner in which the utility proposes to meet the requirements of this section, including a proposed schedule for purchasing renewable energy from C-BED and non-C-BED projects. The utility shall update the plan as necessary in its filing under section 216B.2422. The commission shall approve the plan unless it determines, after public hearing and comment, that the plan is not in the public interest. As part of its determination of public interest, the commission shall consider the plan's allocation of projects among C-BED, non-C-BED, and utility-owned projects, balancing the state's interest in:

- (1) promoting the policy of economic development in rural areas through the development of renewable energy projects, as expressed in subdivision 9;
- (2) maintaining the reliability of the state's electric power grid; and
- (3) minimizing cost impacts on ratepayers.

History: 2001 c 212 art 8 s 3; 2002 c 398 s 3; 1Sp2003 c 11 art 2 s 3; 2007 c 3 s 1; 2007 c 136 art 4 s 10; art 6 s 1,2; 2008 c 258 s 1; 2009 c 110 s 13; 2010 c 382 s 45; 2011 c 76 art 1 s 30; 2011 c 97 s 14,15