

A bill for an act
relating to energy; modifying provisions relating to tariffs and contracts for
community-based energy development projects; amending Minnesota Statutes
2008, section 216B.1612, subdivisions 1, 3, 5, 7; proposing coding for new law
in Minnesota Statutes, chapter 216B.

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

Section 1. Minnesota Statutes 2008, section 216B.1612, subdivision 1, is amended to
read:

Subdivision 1. **Tariff establishment.** A tariff shall be established:
(1) to optimize local, regional, and state benefits from renewable energy
development and;
(2) to facilitate widespread development of community-based renewable energy
projects throughout Minnesota, especially in rural communities; and
(3) to enable Minnesotans to develop, own, and invest in renewable electric
generation despite their inability to benefit from existing federal tax credit and other
financial incentives.

Sec. 2. Minnesota Statutes 2008, section 216B.1612, subdivision 3, is amended to read:

Subd. 3. **Tariff rate.** (a) The tariff described in subdivision 4 must have a rate
schedule that allows for a net present value rate over the 20-year life of the power
purchase agreement. The tariff must provide for a rate that is higher in the first ten years
of the power purchase agreement than in the last ten years. The discount rate required
to calculate the net present value must be the utility's normal discount rate used for its
other business purposes.

~~(b) The commission shall consider mechanisms to encourage the aggregation of C-BED projects. The tariff for a C-BED project of five megawatts or less must be the net present value equal to the annual average of the previous year's Midwest Independent System Operator (MISO) Average Day Ahead Market Price calculated over the term of the contract, which must extend at least 20 years.~~

(c) The commission shall require that qualifying and nonqualifying owners provide sufficient security to secure performance under the power purchase agreement, and shall prohibit the transfer of the C-BED project to a nonqualifying owner during the initial 20 years of the contract.

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

Sec. 3. Minnesota Statutes 2008, section 216B.1612, subdivision 5, is amended to read:

Subd. 5. **Priority for C-BED projects.** (a) A utility subject to section 216B.1691 that needs to construct new generation, or purchase the output from new generation, as part of its plan to satisfy its good faith objective and standard under that section must ~~take reasonable steps to determine if one or more C-BED projects are available that meet the utility's cost and reliability requirements, applying standard reliability criteria, to fulfill some or all of the identified need at minimal impact to customer rates~~ contract with C-BED projects until the commission determines that the aggregate capacity of such projects installed or for which contracts have been signed in this state reaches 800 megawatts. Only if C-BED projects of any capacity are unavailable or are insufficient to meet the utility's need for additional electricity may the utility purchase electricity from a non-C-BED source.

~~Nothing in this section shall be construed to obligate a utility to enter into a power purchase agreement under a C-BED tariff developed under this section.~~

(b) A utility subject to section 216B.1691, as part of its plan to satisfy its good faith objective and standard under that section, must, by December 31, 2011, contract with C-BED projects with a nameplate capacity of five megawatts or less until the commission determines that the aggregate capacity of such projects installed or for which contracts have been signed in this state reaches 200 megawatts.

~~(b)~~ (c) Each utility shall include in its resource plan submitted under section 216B.2422 a description of its efforts to purchase energy from C-BED projects, including a list of the projects under contract and the amount of C-BED energy purchased.

~~(e)~~ (d) The commission shall consider the efforts and activities of a utility to purchase energy from C-BED projects when evaluating its good faith effort towards meeting the renewable energy objective under section 216B.1691.

~~(d)~~ (e) A municipal power agency or generation and transmission cooperative shall, when issuing a request for proposals for C-BED projects to satisfy its standard obligation under section 216B.1691, provide notice to its member distribution utilities that they may propose, in partnership with other qualifying owners, a C-BED project for the consideration of the municipal power agency or generation and transmission cooperative.

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

Sec. 4. Minnesota Statutes 2008, section 216B.1612, subdivision 7, is amended to read:

Subd. 7. **Other C-BED tariff issues.** (a) A community-based project developer and a utility shall negotiate the rate and power purchase agreement terms consistent with the tariff established under subdivision 4.

(b) At the discretion of the developer, a community-based project developer and a utility may negotiate a power purchase agreement with terms different from the tariff established under subdivision 4.

~~(c) A qualifying owner, or any combination of qualifying owners, may develop a joint venture project with a nonqualifying renewable energy project developer. However, the terms of the C-BED tariff may only apply to the portion of the energy production of the total project that is directly proportional to the equity share of the project owned by the qualifying owners.~~

~~(d)~~ A project that is operating under a power purchase agreement under a C-BED tariff is not eligible for net energy billing under section 216B.164, subdivision 3, or for production incentives under section 216C.41.

~~(e)~~ (d) A public utility must receive commission approval of a power purchase agreement for a C-BED tariffed project. The commission shall provide the utility's ratepayers an opportunity to address the reasonableness of the proposed power purchase agreement. Unless a party objects to a contract within 30 days of submission of the contract to the commission the contract is deemed approved.

(e) Each contract for a C-BED project with a nameplate capacity of five megawatts or less must contain a provision requiring the qualified owners to make a deposit each year throughout the term of the contract into a maintenance reserve account. The annual payment must be of a magnitude to reasonably insure that revenues in the account are sufficient to pay projected maintenance costs over the term of the contract, including provision for contingencies.

(f) A qualifying owner of a C-BED project with a nameplate capacity of five megawatts or less that is aggregated into a larger project may not sign a contract to receive the price established in subdivision 3, paragraph (b).

(g) A qualifying owner receiving the rate established in subdivision 3, paragraph (b), may not participate in the ownership of another C-BED project receiving the rate established in subdivision 3, paragraph (b), if the second project is located within a five-mile radius of the project receiving that rate.

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

Sec. 5. [216B.1613] STANDARDIZED C-BED CONTRACT.

Subdivision 1. **Commission proceeding.** Within 60 days of the effective date of this section, the commission shall initiate a proceeding to standardize all contract provisions, except those establishing the power purchase price, for two classes of C-BED projects: (1) projects with a nameplate capacity of five megawatts or less; and (2) projects with a nameplate capacity of greater than five megawatts. The proceeding shall provide for participation by the public and stakeholders. The commission shall issue an order containing standardized contract language for each class of C-BED project identified in this subdivision no later than 90 days after the opening of the proceeding. Any applicable C-BED contract signed after the date of the commission's order whose provisions are not identical to the standardized contract contained in the commission's order is invalid.

Subd. 2. **Expiration.** This section expires the day following issuance of the order required under subdivision 1.