

A bill for an act

relating to utilities; requiring utility rates be based primarily on cost of service between and among consumer classes; making clarifying and technical changes; amending Minnesota Statutes 2010, sections 216B.03; 216B.07; 216B.16, subdivisions 6, 15; 216B.2401; repealing Minnesota Statutes 2010, section 216B.242.

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

Section 1. Minnesota Statutes 2010, section 216B.03, is amended to read:

216B.03 REASONABLE RATE.

Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable. Rates shall not be unreasonably preferential, unreasonably prejudicial, or discriminatory, but shall be sufficient, equitable, and consistent in application to a class of consumers and among classes of consumers.

To the maximum reasonable extent, the commission shall set rates to encourage energy conservation and renewable energy use and to further the goals of sections 216B.164, 216B.241, and 216C.05. Any doubt as to reasonableness should be resolved in favor of the consumer. For rate-making purposes a public utility may treat two or more municipalities served by it as a single class wherever the populations are comparable in size or the conditions of service are similar.

Sec. 2. Minnesota Statutes 2010, section 216B.07, is amended to read:

216B.07 RATE PREFERENCE PROHIBITED.

No public utility shall, as to rates or service, make or grant any unreasonable preference or advantage to any person or class of consumers or subject any person or class of consumers to any unreasonable prejudice or disadvantage.

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Sec. 3. Minnesota Statutes 2010, section 216B.16, subdivision 6, is amended to read:

Subd. 6. **Factors considered, generally.** (a) The commission, in the exercise of its powers under this chapter to determine just and reasonable rates for a public utility, shall give due consideration to:

(1) the public need for adequate, efficient, and reasonable service and to;

(2) the need of the public utility;

(i) for revenue sufficient to enable it to meet the cost of furnishing the service, including adequate provision for depreciation of its utility property used and useful in rendering service to the public; and

(ii) to earn a fair and reasonable return upon the investment in such property;

(3) in determining the rate base upon which the utility is to be allowed to earn a fair rate of return, the commission shall give due consideration to evidence:

(i) of the cost of the property when first devoted to public use, to;

(ii) prudent acquisition cost to the public utility less appropriate depreciation on each, to;

(iii) construction work in progress, to;

(iv) offsets in the nature of capital provided by sources other than the investors, and to;

(v) other expenses of a capital nature. For purposes of determining rate base, the commission shall consider, and

(vi) the original cost of utility property included in the base and shall make no, without any allowance for its estimated current replacement value; and

(4) the requirement for just and reasonable rates for all classes of consumers based on:

(i) the utility's cost of furnishing the service to each consumer class;

(ii) job and business growth and retention and development of a competitive business environment; and

(iii) the need for substantial record evidence to support revenue allocation deviations from cost of service.

(b) The cost of service must be the principal and primary consideration when the commission determines revenue allocation among the various consumer classes.

Sec. 4. Minnesota Statutes 2010, section 216B.16, subdivision 15, is amended to read:

Subd. 15. **Low-income affordability programs.** (a) The commission must consider ability to pay as a factor in setting utility rates and may establish affordability programs for low-income residential ratepayers in order to ensure affordable, reliable, and continuous

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service to low-income utility customers. ~~Affordability programs may include inverted block rates in which lower energy prices are made available to lower usage customers.~~
~~By September 1, 2007, Income verification is required for any low-income affordability program or subsidy.~~ A public utility serving low-income residential ratepayers who use natural gas for heating must file an affordability program with the commission. For purposes of this subdivision, "low-income residential ratepayers" means ratepayers who receive energy assistance from the low-income home energy assistance program (LIHEAP).

(b) Any affordability program the commission orders a utility to implement must:

(1) lower the percentage of income that participating low-income households devote to energy bills;

(2) increase participating customer payments over time by increasing the frequency of payments;

(3) decrease or eliminate participating customer arrears;

(4) lower the utility costs associated with customer account collection activities; and

(5) coordinate the program with other available low-income bill payment assistance and conservation resources.

(c) In ordering affordability programs, the commission may require public utilities to file program evaluations that measure the effect of the affordability program on:

(1) the percentage of income that participating households devote to energy bills;

(2) service disconnections; and

(3) frequency of customer payments, utility collection costs, arrearages, and bad debt.

(d) The commission must issue orders necessary to implement, administer, and evaluate affordability programs, and to allow a utility to recover program costs, including administrative costs, on a timely basis. The commission may not allow a utility to recover administrative costs, excluding start-up costs, in excess of five percent of total program costs, or program evaluation costs in excess of two percent of total program costs. The commission must permit deferred accounting, with carrying costs, for recovery of program costs incurred during the period between general rate cases.

(e) Public utilities may use information collected or created for the purpose of administering energy assistance to administer affordability programs.

Sec. 5. Minnesota Statutes 2010, section 216B.2401, is amended to read:

216B.2401 ENERGY CONSERVATION POLICY GOAL.

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It is the energy policy of the state of Minnesota to achieve annual energy savings equal to 1.5 percent of annual retail energy sales of electricity and natural gas directly through energy conservation improvement programs ~~and rate design, such as inverted block rates in which lower energy prices are made available to lower-usage residential customers,~~ and indirectly through energy codes and appliance standards, programs designed to transform the market or change consumer behavior, energy savings resulting from efficiency improvements to the utility infrastructure and system, and other efforts to promote energy efficiency and energy conservation.

Sec. 6. **REPEALER.**

Minnesota Statutes 2010, section 216B.242, is repealed.

APPENDIX
Repealed Minnesota Statutes: 11-1190

216B.242 NATURAL GAS INVERTED RATES PROGRAM.

The commission may initiate a program designed to demonstrate the effect of inverted rates on promoting conservation by the residential customers of natural gas utilities. Any inverted rates ordered by the commission shall present customers with a tailblock price that, to the maximum extent practicable, reflects the replacement cost of gas. Total revenues collected from customers involved in this pilot program may not exceed those that would be collected under a flat rate. The commission may order one public gas utility to implement a pilot program of inverted rates for residential customers and to monitor the effects of these rates on gas consumption, and on costs to residential customers. The program shall include a sufficient number of residential customers to provide statistically significant conclusions regarding the effects and costs of inverted rates.