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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 1289

02/18/2021 Authored by Hollins, Hornstein and Acomb
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 provisions providing for a participant's compensation
1.3 in certain Public Utilities Commission proceedings; amending Minnesota Statutes
1.4 2020, section 216B.16, subdivision 10.

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

1.6 Section 1. Minnesota Statutes 2020, section 216B.16, subdivision 10, is amended to read:

1.7 Subd. 10. ~~Intervenor Compensation for participants in proceedings.~~ (a) ~~A nonprofit~~
1.8 ~~organization or an individual granted formal intervenor status by the commission is~~ The
1.9 following entities are eligible to receive compensation under this subdivision:

1.10 (1) a nonprofit organization that is:

1.11 (i) exempt from taxation under section 501(c)(3) of the United States Internal Revenue
1.12 Code;

1.13 (ii) incorporated in Minnesota; and

1.14 (iii) governed under chapter 317A;

1.15 (2) a tribal government of a federally recognized Indian tribe that is located in Minnesota;
1.16 and

1.17 (3) a Minnesota resident.

1.18 (b) The commission may order a public utility to compensate all or part of an eligible
1.19 ~~intervenor's participant's~~ reasonable costs of participation in a ~~general rate case~~ proceeding
1.20 that comes before the commission when the commission finds that the ~~intervenor~~ participant
1.21 has materially assisted the commission's deliberation and when a lack of compensation

2.1 ~~would present financial hardship to the intervenor. Compensation may not exceed \$50,000~~
2.2 ~~for a single intervenor in any proceeding.~~

2.3 For the purpose of this subdivision, "materially assisted" means that the ~~intervenor's~~
2.4 ~~participation and presentation was~~ participant's contributions were useful and seriously
2.5 considered, or otherwise substantially contributed to the commission's deliberations in the
2.6 proceeding.

2.7 (c) In determining whether ~~an intervenor~~ a participant has materially assisted the
2.8 commission's deliberation, the commission must ~~consider, among other factors, whether~~
2.9 find that:

2.10 (1) the ~~intervenor~~ participant made a unique contribution to the record and represented
2.11 an interest that would not otherwise have been adequately represented;

2.12 (2) the evidence or arguments presented or the positions taken by the ~~intervenor~~
2.13 participant were an important factor in producing a fair decision;

2.14 (3) the ~~intervenor's~~ participant's position promoted a public purpose or policy;

2.15 (4) the evidence presented, arguments made, issues raised, or positions taken by the
2.16 ~~intervenor~~ participant would not otherwise have been a part of the record ~~without the~~
2.17 ~~intervenor's participation;~~

2.18 (5) the participant was active in any commission-ordered stakeholder process made part
2.19 of the proceeding; and

2.20 ~~(5) the administrative law judge or the commission~~

2.21 (6) the proceeding resulted in a commission order that adopted, in whole or in part, a
2.22 position advocated by the ~~intervenor~~ participant.

2.23 (d) ~~In determining whether the absence of compensation would present financial hardship~~
2.24 ~~to the intervenor, the commission must consider:~~

2.25 ~~(1) whether the costs presented in the intervenor's claim reflect reasonable fees for~~
2.26 ~~attorneys and expert witnesses and other reasonable costs; and~~

2.27 ~~(2) the ratio between the costs of intervention and the intervenor's unrestricted funds.~~

2.28 (d) Compensation must not exceed \$75,000 for a single participant in any proceeding,
2.29 except that if a proceeding extends beyond one calendar year, a participant may request
2.30 compensation of up to \$75,000 for costs incurred in each calendar year. Participants
2.31 representing similar interests are encouraged to participate jointly. Compensation requests

3.1 from joint participants must be presented as a single request. A single participant must not
 3.2 be granted more than \$250,000 under this subdivision in a single calendar year.

3.3 (e) Notwithstanding paragraph (d), the commission is prohibited from, in any calendar
 3.4 year, requiring a single utility to pay aggregate compensation under this section that exceeds
 3.5 the following amounts:

3.6 (1) \$150,000, for a utility with up to \$300,000,000 annual gross operating revenue in
 3.7 Minnesota;

3.8 (2) \$500,000, for a utility with more than \$300,000,000 but less than \$1,000,000,000
 3.9 annual gross operating revenue in Minnesota;

3.10 (3) \$1,000,000, for a utility with more than \$1,000,000,000 but less than \$3,000,000,000
 3.11 annual gross operating revenue in Minnesota; and

3.12 (4) \$2,500,000, for a utility with more than \$3,000,000,000 annual gross operating
 3.13 revenue in Minnesota.

3.14 (f) When requests for compensation from any utility approach the limits established in
 3.15 paragraph (e), the commission may prioritize requests from parties that received less
 3.16 compensation during the previous two years.

3.17 ~~(e) An intervenor~~ (g) A participant seeking compensation must file a request and an
 3.18 affidavit of service with the commission, and serve a copy of the request on each party to
 3.19 the proceeding. The request must be filed no more than 30 days after the later of: (1) the
 3.20 expiration of the period within which a petition for rehearing, amendment, vacation,
 3.21 reconsideration, or reargument must be filed; or (2) the date the commission issues an order
 3.22 following rehearing, amendment, vacation, reconsideration, or reargument.

3.23 ~~(f)~~ (h) The compensation request must include:

3.24 (1) the name and address of the ~~intervenor~~ participant or representative of the nonprofit
 3.25 organization the ~~intervenor~~ participant is representing;

3.26 (2) ~~proof~~ evidence of the organization's nonprofit, tax-exempt status;

3.27 (3) the name and docket number of the proceeding for which compensation is requested;

3.28 (4) a list of actual annual revenues and expenses of the organization the ~~intervenor~~ is
 3.29 representing ~~incurred for participation in commission proceedings~~ for the preceding year
 3.30 and current years, and projected revenues, revenue sources, and expenses for the current
 3.31 year;

4.1 (5) ~~the organization's balance sheet for the preceding year and a current monthly balance~~
4.2 ~~sheet~~ amount of compensation awarded to the participant under this subdivision during the
4.3 current year, by docket;

4.4 (6) an itemization of ~~intervenor~~ the participant's costs, excluding overhead costs, and
4.5 the total compensation request; and

4.6 (7) a narrative explaining ~~why additional organizational funds cannot be devoted to the~~
4.7 ~~intervention~~ the unique contribution made to the proceeding by the participant.

4.8 ~~(g)~~ (i) Within 30 days after service of the request for compensation, a party may file a
4.9 response, together with an affidavit of service, with the commission. A copy of the response
4.10 must be served on the ~~intervenor~~ participant and all other parties to the proceeding.

4.11 ~~(h)~~ (j) Within 15 days after the response is filed, the ~~intervenor~~ participant may file a
4.12 reply with the commission. A copy of the reply and an affidavit of service must be served
4.13 on all other parties to the proceeding.

4.14 ~~(i)~~ (k) If additional costs are incurred as a result of additional proceedings following the
4.15 commission's initial order, the ~~intervenor~~ participant may file an amended request within
4.16 30 days after the commission issues an amended order. Paragraphs ~~(e)~~ (g) to ~~(h)~~ (j) apply
4.17 to an amended request.

4.18 ~~(j)~~ (l) The commission must issue a decision on ~~intervenor~~ participant compensation
4.19 within 60 days of a filing by an ~~intervenor~~ a participant.

4.20 ~~(k)~~ (m) A party may request reconsideration of the commission's compensation decision
4.21 within 30 days of the decision.

4.22 ~~(l)~~ (n) If the commission issues an order requiring payment of ~~intervenor~~ participant
4.23 compensation, the utility that was the subject of the proceeding must pay the compensation
4.24 to the ~~intervenor~~ participant, and file with the commission proof of payment, within 30 days
4.25 after the later of: (1) the expiration of the period within which a petition for reconsideration
4.26 of the commission's compensation decision must be filed; or (2) the date the commission
4.27 issues an order following reconsideration of its order on ~~intervenor~~ participant compensation.

4.28 (o) If the commission issues an order requiring payment of participant compensation in
4.29 a proceeding involving multiple utilities, the commission must apportion costs among
4.30 utilities in proportion to each utility's annual revenue requirement, as determined in its most
4.31 recent general rate case.

4.32 (p) The commission must allow a utility to recover the costs of participant compensation.

5.1 (q) For purposes of this subdivision, "participant" means a person who meets the
5.2 requirements of paragraph (a) and who:

5.3 (1) files comments or appears in a Public Utilities Commission proceeding, other than
5.4 public hearings, concerning one or more public utilities; or

5.5 (2) is permitted by the Public Utilities Commissions to intervene in a commission
5.6 proceeding concerning one or more public utilities.

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