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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-NINTH SESSION

H. F. No. **3570**

03/24/2016 Authored by Garofalo

The bill was read for the first time and referred to the Committee on Job Growth and Energy Affordability Policy and Finance

1.1 A bill for an act  
1.2 relating to energy; permitting rate-regulated cooperative associations to file for  
1.3 an alternative regulatory review of general rate increase requests; proposing  
1.4 coding for new law in Minnesota Statutes, chapter 216B.

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

1.6 Section 1. [216B.1615] ELECTRIC COOPERATIVE ALTERNATIVE RATE  
1.7 CASE PROCESS.

1.8 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms  
1.9 have the meanings given them.

1.10 (b) "Base revenue" means the revenue generated by permanent rates and charges,  
1.11 excluding revenue generated through (1) rider mechanisms, and (2) miscellaneous service  
1.12 charges.

1.13 (c) "CFC" means the National Rural Utilities Cooperative Finance Corporation.

1.14 (d) "Rate structure change" means any of the following: (1) introduction of a new  
1.15 rate schedule; (2) elimination of an existing rate schedule; (3) a change in base revenue  
1.16 generated by any one rate class greater than 1.5 times the overall base revenue percent  
1.17 increase; or (4) a change greater than 25 percent in the customer charge within a rate  
1.18 schedule for residential customers.

1.19 (e) "RUS" means the United States Department of Agriculture, Rural Utilities  
1.20 Service.

1.21 (f) "Test year" means a cooperative association's historic 12-month actual operating  
1.22 results, adjusted for known and measurable changes.

2.1        Subd. 2. **Eligibility.** A cooperative association may propose and the commission  
2.2 may approve a general rate application under this section, provided all of the following  
2.3 eligibility criteria are met:

2.4        (1) the cooperative is subject to rate regulation by the commission through a member  
2.5 vote under section 216B.026;

2.6        (2) the commission has issued a final determination, as defined in section 216B.16,  
2.7 subdivision 2, regarding a rate change within the 180-month period immediately preceding  
2.8 the filing of the cooperative's rate application;

2.9        (3) the commission's final determination in the cooperative's most recent general rate  
2.10 case or alternative rate case process resulted in the cooperative receiving a minimum of 80  
2.11 percent of its original revenue increase request;

2.12        (4) the cooperative has not filed a rate application under this section within the 12  
2.13 months immediately preceding the filing of the cooperative's rate application;

2.14        (5) the cooperative is required by law or contract to make a certified annual financial  
2.15 and statistical report to (i) a federal agency, including the RUS or the Federal Energy  
2.16 Regulatory Commission, or (ii) an established national nonprofit lender that specializes  
2.17 in the utility industry, including the CFC;

2.18        (6) the test year used in the cooperative's rate application complies with the  
2.19 definition of a test year in subdivision 1;

2.20        (7) the cooperative's rate application includes audited financials for a period ending  
2.21 no more than nine months before the beginning of the test year;

2.22        (8) the cooperative's rate application proposes an increase in total base revenue no  
2.23 greater than six percent of the test year actual total base revenue;

2.24        (9) the cooperative's rate application proposes only a change in its monthly fixed  
2.25 charges or volumetric charges, and does not include: (i) a change in an existing surcharge  
2.26 or refund mechanism; (ii) adoption of a new surcharge or refund mechanism, unless  
2.27 incorporating a charge or charges otherwise previously approved by the commission; or  
2.28 (iii) adoption of a new connection or other fixed fee;

2.29        (10) the cooperative's rate application does not propose a rate structure change;

2.30        (11) the cooperative's rate application does not request consolidation with any other  
2.31 docket; and

2.32        (12) the customer notice provided by the cooperative meets the requirements of  
2.33 subdivision 4.

2.34        Subd. 3. **Notice.** A cooperative is prohibited from changing a rate that has been duly  
2.35 established under this chapter, except upon 60 days' notice to the commission. The notice  
2.36 for an application to change a rate under this subdivision must include the information in

subdivision 4, clause (5). The cooperative must also give written notice of the proposed change to the governing body of each municipality and county in the area affected, and must publish notice of the proposed change in newspapers of general circulation in all county seats in its service area.

**Subd. 4. Filing requirements.** A cooperative filing for alternative rate review and approval under this subdivision must provide:

(1) the name, address, and telephone number of the cooperative, without abbreviation;  
(2) the name, address, and telephone number of the attorney for the cooperative, if the cooperative is using an attorney;

(3) the date of the filing and the date the proposed rate change will go into effect;

(4) the signature and title of the utility employee responsible for the filing;

(5) a brief summary of the rate request, including sufficient detail to inform potentially interested parties of its nature and general content;

(6) the information required under Minnesota Rules, parts 7825.3900 to 7829.4400, as applicable for a cooperative;

(7) a copy of audited financials for the cooperative, for a period ending no earlier than nine months before the beginning of the test year; and

(8) any additional information necessary for the commission to confirm the eligibility of the cooperative for alternative review, as established under subdivision 2.

**Subd. 5. Interim rates.** If the cooperative rate application follows the alternative procedure, interim rates up to 50 percent of the requested revenue increase must be allowed and put into effect not later than 60 days after the rate application is filed. If the commission fails to confirm that the application qualifies for the alternative rate case process within 20 days after receipt of the application, the cooperative may implement interim rates consistent with section 216B.16, subdivision 3.

**Subd. 6. Eligibility and sufficiency review.** Any person who objects to the cooperative's rate application under this section must file an objection within 20 days of the date of the application. The cooperative may reply within ten days of the date of an objection. Within 30 days after the deadline for objections, the commission must determine whether the cooperative is eligible and has met all applicable filing requirements. If the commission determines the application is complete and the cooperative is eligible, the application must be reviewed under subdivision 7.

**Subd. 7. Review and report.** Upon acceptance of an application by the commission, the department must conduct a substantive review of the application and file its report and recommendations within 90 days. The department review must consider the cooperative's use of models and methodologies approved by the commission in prior general rate

4.1 case proceedings, and may request an extension of 30 days for the filing of its report if  
4.2 necessary to fully review the application. Any interested party may also file comments  
4.3 concurrently with the filing of the department report. The cooperative, the department,  
4.4 and any interested person or party may file a response to the report within 15 days.

4.5 Subd. 8. **Final decision.** The commission must make its final decision regarding a  
4.6 rate increase application under this section within 180 days of submission of a complete  
4.7 application, unless the commission has granted a department extension request under  
4.8 subdivision 7. If the commission has granted the department's extension request, the  
4.9 commission must make its final determination within 210 days. The commission must  
4.10 approve the cooperative's application unless it determines that the resulting rates would be  
4.11 unjust and unreasonable. If the rates are deemed unjust and unreasonable, the commission  
4.12 must determine the rates the cooperative may charge for the service or services in question.