

1.1 A bill for an act

1.2 relating to energy; amending size threshold for certain small energy generation  
1.3 projects; amending Minnesota Statutes 2008, section 216B.164, subdivisions 3,  
1.4 4, 6.

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

1.6 Section 1. Minnesota Statutes 2008, section 216B.164, subdivision 3, is amended to  
1.7 read:

1.8 Subd. 3. **Purchases; small facilities.** (a) For a qualifying facility having less than  
1.9 40-kilowatt capacity, the customer shall be billed for the net energy supplied by the utility  
1.10 according to the applicable rate schedule for sales to that class of customer. In the case  
1.11 of net input into the utility system by a qualifying facility having less than ~~40-kilowatt~~  
1.12 two-megawatt capacity, compensation to the customer shall be at a per kilowatt-hour  
1.13 rate determined under paragraph (b) or (c).

1.14 (b) In setting rates, the commission shall consider the fixed distribution costs to the  
1.15 utility not otherwise accounted for in the basic monthly charge and shall ensure that the  
1.16 costs charged to the qualifying facility are not discriminatory in relation to the costs  
1.17 charged to other customers of the utility. The commission shall set the rates for net  
1.18 input into the utility system based on avoided costs as defined in the Code of Federal  
1.19 Regulations, title 18, section 292.101, paragraph (b)(6), the factors listed in Code of  
1.20 Federal Regulations, title 18, section 292.304, and all other relevant factors.

1.21 (c) Notwithstanding any provision in this chapter to the contrary, a qualifying facility  
1.22 having less than ~~40-kilowatt~~ two-megawatt capacity may elect that the compensation for  
1.23 net input by the qualifying facility into the utility system shall be at the average retail  
1.24 utility energy rate. "Average retail utility energy rate" is defined as the average of the retail

2.1 energy rates, exclusive of special rates based on income, age, or energy conservation,  
2.2 according to the applicable rate schedule of the utility for sales to that class of customer.

2.3 (d) If the qualifying facility is interconnected with a nongenerating utility which has  
2.4 a sole source contract with a municipal power agency or a generation and transmission  
2.5 utility, the nongenerating utility may elect to treat its purchase of any net input under this  
2.6 subdivision as being made on behalf of its supplier and shall be reimbursed by its supplier  
2.7 for any additional costs incurred in making the purchase. Qualifying facilities having  
2.8 less than ~~40-kilowatt~~ two-megawatt capacity may, at the customer's option, elect to be  
2.9 governed by the provisions of subdivision 4.

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

2.11 Sec. 2. Minnesota Statutes 2008, section 216B.164, subdivision 4, is amended to read:

2.12 Subd. 4. **Purchases; wheeling; costs.** (a) Except as otherwise provided in  
2.13 paragraph (c), this subdivision shall apply to all qualifying facilities having ~~40-kilowatt~~  
2.14 two-megawatt capacity or more as well as qualifying facilities as defined in subdivision 3  
2.15 which elect to be governed by its provisions.

2.16 (b) The utility to which the qualifying facility is interconnected shall purchase all  
2.17 energy and capacity made available by the qualifying facility. The qualifying facility shall  
2.18 be paid the utility's full avoided capacity and energy costs as negotiated by the parties, as  
2.19 set by the commission, or as determined through competitive bidding approved by the  
2.20 commission. The full avoided capacity and energy costs to be paid a qualifying facility  
2.21 that generates electric power by means of a renewable energy source are the utility's least  
2.22 cost renewable energy facility or the bid of a competing supplier of a least cost renewable  
2.23 energy facility, whichever is lower, unless the commission's resource plan order, under  
2.24 section 216B.2422, subdivision 2, provides that the use of a renewable resource to meet  
2.25 the identified capacity need is not in the public interest.

2.26 (c) For all qualifying facilities having 30-kilowatt capacity or more, the utility  
2.27 shall, at the qualifying facility's or the utility's request, provide wheeling or exchange  
2.28 agreements wherever practicable to sell the qualifying facility's output to any other  
2.29 Minnesota utility having generation expansion anticipated or planned for the ensuing ten  
2.30 years. The commission shall establish the methods and procedures to insure that except  
2.31 for reasonable wheeling charges and line losses, the qualifying facility receives the full  
2.32 avoided energy and capacity costs of the utility ultimately receiving the output.

2.33 (d) The commission shall set rates for electricity generated by renewable energy.

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

**S.F. No. 3172, as introduced - 86th Legislative Session (2009-2010) [10-5996]**

3.1 Sec. 3. Minnesota Statutes 2008, section 216B.164, subdivision 6, is amended to read:

3.2 Subd. 6. **Rules and uniform contract.** (a) The commission shall promulgate rules  
3.3 to implement the provisions of this section. The commission shall also establish a uniform  
3.4 statewide form of contract for use between utilities and a qualifying facility having less  
3.5 than ~~40-kilowatt~~ two-megawatt capacity.

3.6 (b) The commission shall require the qualifying facility to provide the utility with  
3.7 reasonable access to the premises and equipment of the qualifying facility if the particular  
3.8 configuration of the qualifying facility precludes disconnection or testing of the qualifying  
3.9 facility from the utility side of the interconnection with the utility remaining responsible  
3.10 for its personnel.

3.11 (c) The uniform statewide form of contract shall be applied to all new and existing  
3.12 interconnections established between a utility and a qualifying facility having less than  
3.13 ~~40-kilowatt~~ two-megawatt capacity, except that existing contracts may remain in force  
3.14 until written notice of election that the uniform statewide contract form applies is given  
3.15 by either party to the other, with the notice being of the shortest time period permitted  
3.16 under the existing contract for termination of the existing contract by either party, but  
3.17 not less than ten nor longer than 30 days.

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